

2007 - 2008 LEGISLATURE

LRB-2008-01

ARG:cjs:nnw

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT *to repeal* 25.17 (3) (bh) and (d), 25.17 (3) (dm), 25.17 (15) and 25.17 (65);  
2 *to renumber and amend* 25.17 (3) (a); *to amend* 25.14 (1) (a) (intro.), 25.14  
3 (1) (a) 1., 25.14 (5), 25.15 (2) (intro.), 25.15 (3), 25.16 (4), 25.17 (intro.), 25.17 (1)  
4 (r), 25.17 (2) (b) to (f), 25.17 (3) (b) (intro.), 3., 4., 5. and 7., 25.17 (3) (ba), 25.17  
5 (3) (bd), 25.17 (3) (dg) (intro.), 25.17 (3) (f), 25.17 (3) (g), 25.17 (4), 25.17 (5), 25.17  
6 (6), 25.17 (7) (a) and (b), 25.17 (10), 25.17 (12) (a) and (b), 25.17 (70) (intro.),  
7 25.17 (70) (b) (intro.), 25.17 (70) (d), 25.18 (1) (intro.) and (e) and 560.08 (2) (m);  
8 and *to create* 25.14 (1) (a) 19. to 23., 25.156 (10) and (11), 25.17 (1) (eq), 25.17  
9 (1) (vb), 25.17 (2) (g), 25.17 (3) (a) 1. to 15., 25.17 (63), 25.175, 25.178, 25.18 (1)

(fa) and (ha) and 25.182 of the statutes; **relating to:** investments and operations of the State of Wisconsin Investment Board.

***Analysis by the Legislative Reference Bureau***

~~This is a preliminary draft. An analysis will be provided in a later version.~~

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**SECTION 1.** 25.14 (1) (a) (intro.) of the statutes is amended to read:

25.14 (1) (a) (intro.) There is created a state investment fund under the jurisdiction and management of the board to be operated as an investment trust for the purpose, subject to s. 25.17 (63), of managing the securities of all of the state's funds consisting of the funds specified in s. 25.17 (1), except all of the following:

\*\*\*\*NOTE: If you think this treatment is unnecessary, I will eliminate it.

\*\*\*\*NOTE: I'm not sure what to make of s. 645.46 (16). It seems similar to created s. 25.17 (63), allowing for investment in the SIF without being identified as a SIF component fund. If you want to retain the treatment above, do you also want to add s. 645.46 (16) as an underscored cross-reference?

**SECTION 2.** 25.14 (1) (a) 1. of the statutes is amended to read:

25.14 (1) (a) 1. The state life insurance fund.

\*\*\*\*NOTE: I did not amend the terms "state life fund" or "life fund" outside of ch. 25 – for instance, in ss. 20.145 (4) (intro.) and (v), 604.02 (1) (b), 607.02 (1), and 607.07 (2). Is this consistent with your intent?

**SECTION 3.** 25.14 (1) (a) 19. to 23. of the statutes are created to read:

25.14 (1) (a) 19. The local government property insurance fund.

20. All funds of the historical society that are available for investment as determined by the society under s. 25.17 (3) (c).

21. The environmental improvement fund.

22. The transportation infrastructure loan fund.

23. The veterans trust fund.

\*\*\*\*NOTE: Do you want to include the "mediation fund" in the SIF? See s. 655.68 (4) (b)? (Is the investment directive in s. 655.68 (4) (b), particularly the "short-term" component, consistent with general SIF investment authority?)

1 SECTION 4. 25.14 (5) of the statutes is amended to read:

2 25.14 (5) The assets of the state investment fund shall be invested as  
 3 prescribed by s. <sup>authorized</sup> ss. 25.17 (3) (b), (ba) <sup>PLAIN</sup> and (bd), and (dg), 25.18 <sup>add comma</sup> (1) (g) <sup>as applicable</sup> and (h)  
 4 ~~and (2) (a) and 25.183.~~

\*\*\*\*NOTE: I have included a more narrowly-tailored cross-reference to s. 25.18, given the "invested as prescribed" language of this provision. Is this okay? Is the SIF considered to have authority with respect to each of the instruments in these cross-referenced provisions?

5 SECTION 5. 25.15 (2) (intro.) of the statutes is amended to read:

6 25.15 (2) STANDARD OF RESPONSIBILITY. (intro.) Except as provided in s. 25.17  
 7 (2) (f), <sup>and (3) (c)</sup> the standard of responsibility applied to the board when it <sup>manages</sup> invests money or <sup>and</sup>  
 8 property shall be all of the following:

\*\*\*\*NOTE: The draft creates s. 25.17 (2) (g), which I assume you also want included in the cross-reference here. Since it seems that all of the subunits of s. 25.17 (2) should be included in the cross-reference, I refer only to sub. (2) (which includes all paragraphs).

9 SECTION 6. 25.15 (3) of the statutes is amended to read:

10 25.15 (3) EXEMPTION. Section ~~Except as otherwise provided in this section, s.~~  
 11 ~~881.01~~ <sup>s. 25.17(3)(c), ch. 881</sup> does not apply to investments by the board.

\*\*\*\*NOTE: I don't understand this change. Under what part of s. 25.15 would s. 881.01 apply? Also, if s. 881.01 categorically does not apply to SWIB investments, why is it necessary to again refer to ch. 881 in s. 25.17 (2)? As far as I can tell, there is no other provision in ch. 881 that is necessary to have apply if s. 881.01 does not apply. If the purpose of this bill is in part to provide better clarity, I think the references in ch. 25 to s. 881.01 or ch. 881 could be better harmonized by consolidating them into one provision. Unless you believe s. 881.015 or some other provision of ch. 881 applies to SWIB, I would suggest changing the cross-reference in s. 25.15 (3) from s. "881.01" to "ch. 881" and then eliminating altogether, in s. 25.17 (2), all of the references to ch. 881, since these references would then be redundant.

12 SECTION 7. 25.156 (10) and (11) of the statutes are created to read:

13 25.156 (10) The provisions of s. 895.46 (1) apply to the members of the board.

1           **(11)** Notwithstanding s. 16.865 (5), the members of the board shall have the  
2 authority to secure directors' liability insurance in amounts reasonably expected to  
3 be adequate.

4           **SECTION 8.** 25.16 (4) of the statutes is amended to read:

5           25.16 **(4)** The executive director shall take the official oath and the executive  
6 director, chief investment officer, and each investment director shall, if required by  
7 the members of the board, file a bond for the faithful performance of that person's  
8 duties in such amount and with such sureties as the members of the board require.

9           **SECTION 9.** 25.17 (intro.) of the statutes is amended to read:

10           **25.17 Powers and duties of board.** (intro.) The "State of Wisconsin  
11 Investment Board" shall be a body corporate with power to sue and be sued in said  
12 name. The board shall have a seal with the words, "State of Wisconsin Investment  
13 Board". Subject to s. ss. 25.178 and 25.183, the board shall:

14           **SECTION 10.** 25.17 (1) (eq) of the statutes is created to read:

15           25.17 **(1)** (eq) Environmental improvement fund (s. 25.43), but subject to sub.

16           (2) (d);

17           **SECTION 11.** 25.17 (1) (r) of the statutes is amended to read:

18           25.17 **(1)** (r) State housing authority reserve fund (s. 25.41), but subject to sub.

19           (2) (c);

20           **SECTION 12.** 25.17 (1) (vb) of the statutes is created to read:

21           25.17 **(1)** (vb) Transportation infrastructure loan fund (s. 25.405), but subject  
22 to sub. (2) (e);

\*\*\*\*NOTE: Do you want to add the "mediation fund," s. 655.68, to s. 25.17 (1)? Do  
you want to add any specific treatment in s. 25.17 related to "mediation fund" investment  
authority?

23           **SECTION 13.** 25.17 (2) <sup>(a) to (e)</sup> ~~(a) to (f)~~ of the statutes are amended to read:

*Insert 5-1*

1 ~~25.17 (2)~~ (b) Invest the state building trust fund in loans to the Wisconsin State  
 2 Public Building Corporation, to the Wisconsin University Building Corporation, and  
 3 to the Wisconsin State Colleges Building Corporation. Except for interim loans for  
 4 construction, or other temporary financing for the purchase of lands, planning,  
 5 including both engineering and financing, and all other expenses incidental to any  
 6 of the foregoing, loans under this paragraph shall be secured by a pledge and  
 7 assignment of net revenues derived from the operation of buildings by the borrowing  
 8 corporation on lands leased or conveyed to the corporation. Any loan under this  
 9 paragraph shall be made upon the direction of the building commission, and the  
 10 board is relieved of any obligations <sup>relevant</sup> relative to prudent investment of the fund,  
 11 including those set forth under s. 25.15 (2) ~~and ch. 881~~.

\*\*\*NOTE: As mentioned above, you might consider changing the cross-reference in s. 25.15 (3) to "ch. 881" and eliminating the cross-references to ch. 881 in all of the paragraphs of this subsection (and sub. (3) (c) as well).

\*\*\*NOTE: While the last sentence of s. 25.17 (2) (a) more or less undercuts the impact of the remainder of that provision, as discussed in the drafter's note, I find the (intro.) of "shall" ("shall ... invest") for the provision confusing. Do you want to replace "invest" with "have authority to invest" in par. (a) and in any other paragraph of sub. (2) or (3)? Compare s. 25.17 (3) (a) with s. 25.17 (3) (bd) and (dg).

\*\*\*NOTE: With respect to s. 25.17 (2) (a), I also think that the provision should be amended to add to the list of excluded funds "any redemption fund established under s. 18.561 (5) or 18.562 (3)." See ss. 18.561 (5) and 18.562 (3); compare s. 25.17 (2) (a) with s. 25.14 (1) (a) 5., 15m., and 16.

12 (c) Invest the State Housing Authority reserve fund as directed by the  
 13 Wisconsin Housing and Economic Development Authority in housing rehabilitation  
 14 loan program bonds of the authority including subordinated bonds that may also be  
 15 special obligations of the authority. In making the investment, the board shall accept  
 16 the terms and conditions as the authority specifies and is relieved of any obligations  
 17 relative to prudent investment of the fund, including those set forth under s. 25.15  
 18 (2) ~~and ch. 881~~.

*strike*

*relevant*

*strike and move*

1 (d) Invest the environmental improvement fund, and collect the principal and  
2 interest of all moneys loaned or invested from the environmental improvement fund,  
3 as directed by the department of administration under s. 281.59 (2m). In making  
4 investments under this paragraph, the board shall accept any reasonable terms and  
5 conditions that the department of administration specifies and is relieved of any  
6 obligations <sup>PLAIN</sup> ~~relevant~~ ~~relative~~ to prudent investment of the fund, including those set  
7 forth under s. 25.15 (2) ~~and~~ ch. 881. ← strike and move

\*\*\*\*NOTE: Section 25.17 (2) (c) uses the phrase "relative to prudent investment," while s. 25.17 (2) (d) and (e) use the phrase "relevant to prudent investment." Since the language provided in the instructions uses the word "relative" in pars. (b) and (g), I assume this is your preference. For consistency, I have changed "relevant" to "relative" in pars. (d), (e), and (f).

8 (e) Invest the transportation infrastructure loan fund, and collect the principal  
9 and interest of all moneys loaned or invested from the transportation infrastructure  
10 loan fund, as directed by the department of administration under s. 85.52 (4m). In  
11 making investments under this paragraph, the board shall accept any reasonable  
12 terms and conditions that the department of administration specifies and is relieved  
13 of any obligations <sup>PLAIN</sup> ~~relevant~~ ~~relative~~ to prudent investment of the fund, including  
14 those set forth under s. 25.15 (2) ~~and~~ ch. 881. ← strike and move

15 (f) Invest the moneys belonging to the college savings program trust fund, the  
16 college savings program bank deposit trust fund, and the college savings program  
17 credit union deposit trust fund in a manner consistent with the guidelines  
18 established under s. 14.64 (2) (c), unless the moneys are under the management and  
19 control of a vendor selected under s. 16.255. In making investments under this  
20 paragraph, the investment board shall accept any reasonable terms and conditions  
21 that the college savings program board specifies and is relieved of any obligations

relevant relative to prudent investment of the fund, including the standard of responsibility under s. 25.15 (2) and ch. 881.

SECTION 14. 25.17 (2) (g) of the statutes is created to read:

25.17 (2) (g) Notwithstanding any other provision of this chapter, invest funds <sup>any</sup> subject to a resolution <sup>that</sup> of the building commission under s. 18.04 (6) (b) as provided <sup>specified by such</sup> under s. 18.04 (6) (c) and (d) and that resolution. In making investments under this paragraph, the board shall accept the terms and conditions specified in the resolution and is relieved of any obligations <sup>relevant</sup> relative to prudent investment of the fund, including those set forth under s. 25.15 (2) and ch. 881.

\*\*\*NOTE: I assume that investment under this paragraph is mandatory, not permissive, and that "shall ... invest" is the appropriate directive.

\*\*\*NOTE: This provision is only slightly modified from the language provided in the instructions. I am uncertain whether this provision accomplishes your intent. There are two different types of resolutions under s. 18.04 (6) (b), one creating or designating funds or accounts for deposit and a second relating specifically to the veterans mortgage loan repayment fund. Did you intend that both types of resolutions fall within the scope of created s. 25.17 (2) (g)? It is unclear to me, from the language of ss. 18.04 (6) (c) and 45.37 (7) (a), whether some or all of the moneys deposited in the veterans mortgage loan repayment fund are invested according to such a resolution. If the answer is all, does it make sense for the veterans mortgage loan repayment fund to be part of the SIF? Depending on the answer, it seems that either s. 25.14 (1) or (5) would need to be treated in this bill.

SECTION 15. 25.17 (3) (a) of the statutes is renumbered 25.17 (3) (a) (intro.) and amended to read:

25.17 (3) (a) (intro.) Invest the core retirement investment trust, state life insurance fund, local government property insurance fund, veterans trust fund, and injured patients and families compensation fund in loans, securities, and any other investments authorized by s. 620.22, and in bonds or other evidences of indebtedness or preferred stock of companies engaged in the finance business whether as direct lenders or as holding companies owning subsidiaries engaged in the finance business. Investments permitted by sub. (4) are permitted investments under this

1 ~~subsection. any of the following classes of investments, whether the investments are~~  
2 ~~made directly and exclusively in the board's name or by the board as a participant~~  
3 ~~in a partnership, joint venture, commingled fund or trust, or other collective~~  
4 ~~investment instrument:~~

\*\*\*\*NOTE: I did not include the term "stand-alone" because it is not a term used in ch. 25. Is the language above okay? Would you prefer, instead of "directly and exclusively in the board's name," the language "made directly in a dedicated account" or "made in an account in which the board directly holds title to the investment"?

\*\*\*\*NOTE: With the underscored changes, this provision includes the "local government property insurance fund," which falls under ch. 605, and the "state life insurance fund," which falls under ch. 607. Section 604.05 states, "Assets of all funds under chs. 605 to 607 shall be invested by the state investment board under s. 25.17." I'm not sure if any clarification is needed, but there might be a question as to whether investment instruments available under s. 25.18 are available for these two funds. Do you want me to make any change to this cross-reference in s. 604.05? Or do you want me to use more specific cross-references, like "under s. 25.17 (1) (jm) and (t)," similar to s. 70.395 (2) (c) 2.? See also ss. 344.20 (4) and 560.10 (1).

\*\*\*\*NOTE: With respect to the injured patients and families compensation fund included in this provision, s. 655.27 (4) (e) provides, "The state investment board shall invest moneys held in the fund in investments with maturities and liquidity that are appropriate for the needs of the fund as reported by the board of governors in its quarterly reports under this paragraph." Is this general provision necessary given the specific investment authority provided in ch. 25, and could this general provision ever be found to conflict with specific investment authority in ch. 25?

5 **SECTION 16.** 25.17 (3) (a) 1. to 15. of the statutes are created to read:

6 25.17 (3) (a) 1. Bonds or other evidences of indebtedness of governmental units  
7 in the United States or any other developed country, of the instrumentalities of such  
8 governmental units, or of any private corporations domiciled in the United States or  
9 any other developed country.

10 2. Loans secured by any of the following:

11 a. Mortgages, trust deeds, or other security interests in tangible property  
12 located in the United States or any other developed country.

13 b. Insurance against default issued by a government insurance corporation of  
14 the United States or any other developed country or by an insurer authorized to do  
15 business in this state.



1           3. Preferred or common stock of any corporation organized in the United States  
2           or any other developed country.

      \*\*\*\*NOTE: Does "organized" in this subdivision mean incorporated (or otherwise formed if an LP, LLP, LLC, etc.)? Will this term allow investment in major companies operating in the U.S. who decide to incorporate "off-shore" in very small countries? Will SWIB invest in companies organized in the Bahamas, Panama, Samoa, Belize, Nevis, British V.I., Qatar, or the United Arab Emirates and are these "developed" countries?

3           4. Property needed for the convenient transaction of the board's business.

      \*\*\*\*NOTE: Is this subdivision primarily in the nature of an "investment" authority? Would this authorization fit better in s. 25.18? I also find the language problematic. What does "needed" for the "convenient transaction" of business mean? Is ownership of an office building, for example, "needed" for the "convenient transaction" of the board's business? Does it make sense that certain trusts or funds hold it as an asset if the "convenience" is to all funds and trusts?

4           5. Real property, together with the fixtures, furniture, furnishings, and  
5           equipment pertaining to the real property, that is located in the United States or any  
6           other developed country and that produces, or after suitable improvement can  
7           reasonably be expected to produce, substantial income.

8           6. Investments in property and facilities for the development and production  
9           of solar or geothermal energy, fossil or synthetic fuel, or gasohol, including ownership  
10          and control of such property and facilities, of up to 5 percent of the amount by which  
11          the fund's or trust's net asset value as of the previous December 31 exceeds \$2 billion.

      \*\*\*\*NOTE: To match the (intro.) to this subdivision, I have changed "fund's net asset value ..." to "fund's or trust's net asset value ...." I also tried to clarify the equation slightly. As a drafting convention, we no longer use "including but not limited to ..."; simply stating "including" has this meaning.

      \*\*\*\*NOTE: Does the 5 percent cap and \$2 billion floor make as much sense for SWIB as for the insurers? Looking at current AUM, it appears that only the core retirement investment trust would qualify for any investment under this subdivision.

12          7. Mortgage bonds of farm loan banks authorized under the federal farm loan  
13          act and debentures issued by the banks for cooperatives established pursuant to the  
14          farm credit act of 1933, as amended.

      \*\*\*\*NOTE: This language, originating from Wis. Adm. Code Ins. 6.20 (8) (a), appears to be obsolete. First, it seems that the federal farm loan act (FFLA), 12 USC 641, has been repealed. I think the FFLA established "federal land banks" and not "farm loan banks" and I believe that these federal land banks became "farm credit banks" or "agricultural

credit banks” as a result of the Agricultural Credit Act of 1987. Also, it is not apparent to me what a “mortgage bond” is – is it a term of art under the repealed FFLA or a mortgage-backed security? Finally, I believe there are also no more “banks for cooperatives;” I believe these may also have become “agricultural credit banks.”

\*\*\*\*NOTE: For short-term debt, the authority provided under this subdivision may already be covered under s. 25.17 (3) (dg) 1.

1       8. Equipment trust certificates evidencing rights to receive payments agreed  
2 to be made upon any contract of leasing or conditional sale.

\*\*\*\*NOTE: I have modified the language slightly from Wis. Adm. Code Ins 6.20 (8) (b), as it seems to me that “equipment securities” is a meaningless term if ETC is specifically referenced in the subdivision.

3       9. Evidences of indebtedness not otherwise authorized that, if held by a bank,  
4 would be eligible for discount, rediscount, purchase, or sale by federal reserve banks  
5 or other government agencies having similar powers and functions, but the  
6 aggregate of these investments may not exceed 1 percent of the fund’s or trust’s net  
7 asset value as of the previous December 31.

\*\*\*\*NOTE: This provision tracks Wis. Adm. Code Ins 6.20 (8) (e). It’s meaning is somewhat unclear to me. I interpret the provision to refer to investments in acceptable collateral that may be pledged by a depository institution to secure a loan through the Discount Window of the various Federal Reserve Banks. Is this correct? If so, do you want to revise the language of this subdivision?

8       10. Direct obligations of foreign governments but the aggregate of these  
9 investments may not exceed 1 percent of the fund’s or trust’s net asset value as of the  
10 previous December 31.

\*\*\*\*NOTE: Is this investment authority intended to apply only with respect to debt of lesser developed countries? When would sovereign debt of another country be subject to the 1 % cap under subd. 10. and when would it not be subject to a cap under subd. 1.? You may wish to include “Except as provided in subd. 1.” at the beginning of this provision or “Subject to subd. 10.,” at the beginning of subd. 1. Also see the next \*\*\*\*Note.

11       11. Loans, securities, or investments in countries other than the United States  
12 and any other developed country that are substantially the same kinds, classes, and  
13 investment grades as those eligible for investment in the United States or any other  
14 developed country, but the aggregate of these investments may not exceed 2 percent  
15 of the fund’s or trust’s net asset value as of the previous December 31.

\*\*\*\*NOTE: Would this provision allow SWIB to hold 2% sovereign debt in lesser developed countries, or would the 1% cap under subd. 10. govern?

\*\*\*\*NOTE: While this provision tracks Wis. Adm. Code Ins 6.20 (8) (k), I am uncertain how to interpret it. What are "securities in ... countries" or "investments in countries"? Is this a debt obligation only? Or does it include securities of corporations domiciled in lesser developed countries and, if so, only securities purchased on those foreign markets (I assume it doesn't include GDRs or ADRs)? Do you want to revise the language of this subdivision to make it clearer?

1           12. Direct obligations of the international bank for reconstruction and  
2 development, the inter-American development bank, the African development  
3 bank, and the Asian development bank, but the aggregate of these investments may  
4 not exceed 2 percent of the fund's or trust's net asset value as of the previous  
5 December 31.

\*\*\*\*NOTE: Will obligations maturing within one year and authorized under s. 25.17 (3) (dg) 1. count toward this 2 % cap? See s. 25.17 (3) (dg) 1.

6           13. Shares of investment companies or investment trusts registered under the  
7 federal Investment Company Act of 1940, 15 USC 80a-1 to 80a-64.

\*\*\*\*NOTE: While this subdivision (almost) duplicates Wis. Adm. Code Ins 6.20 (8) (n), I believe that an investment trust is a type (or sub-set) of "investment company" under the ICA, so the term here would be redundant because the subdivision applies only to "registered" entities. Do you want to omit "or investment trusts"?

8           14. Purchase and ownership of machinery or equipment that is or will become  
9 subject to contracts for sale or use under which contractual payments may  
10 reasonably be expected to return the principal of and provide earnings on the  
11 investment within the anticipated useful life of the property, which may not be less  
12 than 5 years, but the aggregate of these investments may not exceed 3 percent of the  
13 fund's or trust's net asset value as of the previous December 31.

14           15. Investments not otherwise permitted under this section and not specifically  
15 prohibited by statute, not to exceed an amount equal to 5 percent of the first  
16 \$500,000,000 of the fund's or trust's net asset value, plus 10 percent of the fund's or  
17 trust's net asset value that exceeds \$500,000,000, as of the previous December 31.

\*\*\*\*NOTE: Where it reads "investments not otherwise permitted under this section," do you also want to add investments not permitted under s. 25.178 or 25.18? That is, should derivatives and other instruments be included or excluded from this cap?

\*\*\*\*NOTE: I have included an embedded note after created s. 25.182. If the intent is to provide for a residual, catch-all investment authority, what effect will any asset cap in this subsection have?

SECTION 17. 25.17 (3) (b) (intro.), 3., 4., 5. <sup>and</sup> ~~and 7.~~ of the statutes are amended to read:

25.17 (3) (b) (intro.) <sup>strike</sup> ~~Invest~~ <sup>the core retirement investment trust, and</sup> <sup>the variable retirement investment trust</sup> any of the funds over which it has investment authority other than the funds identified in sub. (3) (a) (intro.), including but not limited to the state investment fund and surplus funds of the state building trust fund not invested under sub. (2) (b) and not in the state investment fund, in:

\*\*\*\*NOTE: <sup>Score</sup> ~~Should the underscored language also exclude the bond security and redemption funds? See s. 25.17 (3) (d) (restricting investments to government or guaranteed debt).~~

\*\*\*\*NOTE: As far as I can tell, the only assets held as "trusts" rather than "funds" are the core retirement investment trust and the variable retirement investment trust. In par. (a), I used the term "fund or trust" rather than fund. In the underscored language in par. (b) (intro.) above, I have not used "funds or trusts" (despite the reference to sub. (3) (a) (intro.)) because "funds" in the underscored language is consistent with the preceding term "funds" in the same sentence and that preceding term is accurate in this context.

3. ~~Unsecured notes of financial and industrial issuers~~ Debt instruments maturing within 5 years or less from the date of settlement and having one of the 2 highest short-term ratings given by a nationally recognized <sup>statistical</sup> rating <sup>organization</sup> service, but if the <sup>strike</sup> ~~corporation entity~~ issuing such notes debt instruments has any long-term senior debt issues outstanding which also have been rated, the rating must be one of the 3 highest ratings so given.

\*\*\*\*NOTE: Do you want to replace "nationally recognized rating service" with "nationally recognized statistical rating organization" or "credit rating agency registered with the federal Securities and Exchange Commission" or some other updated terminology? See SEA (Section 15E), 15 USC 78c (a) (61) and (62) and 78o-7. (Also, if you change the term here, it should be changed in s. 25.183 (1) (a) 6e. and 6m. a.)

Insert 13-1  
1 4. Certificates of deposit issued by banks located doing business in the United  
2 States and by savings and loan associations, savings banks, and credit unions  
3 located doing business in this state.

4 5. Bankers acceptances accepted by banks located doing business in the United  
5 States.

6 7. Certificates of deposit of at least \$100,000 issued by solvent financial  
7 institutions doing business in this state. The board shall promulgate rules to  
8 determine solvency on the basis of assets, capital, surplus, undivided profits and net  
9 worth of a financial institution establish guidelines that a financial institution must  
10 meet to qualify under this subdivision.

Insert 13-10  
\*\*\*\*NOTE: Is there a reason why subds. 4. and 7. cannot be combined. There seems to be significant overlap between the two provisions if "financial institution," an undefined term in ch. 25 but defined variously in other chapters, is construed to mean state or nationally chartered banks, savings banks, savings and loan associations, and credit unions.

\*\*\*\*NOTE: In this provision, you have given SWIB discretion to determine solvency. Do you want to revise s. 25.17 (3) (dg) 3. (also dealing with certificates of deposit) with regard to the capitalization requirement? Also, do you want to change "located in" to "doing business in...." in par. (dg) 3?

\*\*\*\*NOTE: Section 25.17 (3) (b) 6. refers only to Canada. Do you want to expand this provision to apply to any developed country?

\*\*\*\*NOTE: Changes to the list of permissible investments under s. 25.17 (3) (b) will have a minor "ripple effect," including on what I understand to be revenue bond trust funds held outside the state treasury. See ss. 18.08 (3) and 18.57 (3).

11 SECTION 18. 25.17 (3) (ba) of the statutes is amended to read:

12 25.17 (3) (ba) ~~Invest~~ the funds included in the state investment fund created  
13 by s. 25.14 in loans upon ~~secured by collateral~~ security in the form of direct  
14 obligations of the U.S. government having a maturity of 5 years or less where,  
15 including repurchase agreements that are collateralized by investments authorized  
16 by sub. (3) (b) where the market value of the collateral security is not less than 102  
17 percent of the principal amount of each such loan does not exceed 98% of the market

Have authority to invest

1 value of such collateral security or such other amount as the board may establish by  
2 rule.

\*\*\*\*NOTE: Again, do you want this paragraph to read "shall ... invest" or "shall ... have authority to invest"?

\*\*\*\*NOTE: As I read this provision, the 102 percent collateral value requirement only applies with respect to repurchase agreements. Is that the intent? (I think the presence or absence of a comma makes a difference in the underscored language's meaning.)

3 **SECTION 19.** 25.17 (3) (bd) of the statutes is amended to read:

4 25.17 (3) (bd) Have authority to invest any funds ~~includable~~ included in the  
5 state investment fund, other than the industrial building construction loan fund, in  
6 loans, securities, or investments which are in addition to those permitted under any  
7 other statute but within the board standard of responsibility under s. 25.15 (2). The  
8 total amount of loans, securities, and investments made under this paragraph may  
9 not exceed ~~10%~~ 10 percent of the aggregate value of all funds ~~includable~~ included in  
10 the state investment fund ~~under s. 25.14 (1)~~ at the time that the investment is made.

11 **SECTION 20.** 25.17 (3) (bh) and (d) of the statutes are repealed.

\*\*\*\*NOTE: It is unclear to me what authority s. 25.17 (3) (c) provides to SWIB that is not already covered under s. 25.17 (1) (intro.) and (gm) to (gr) and (3) (e) and (12) (d). I also think the last sentence of par. (c) is repetitious and confusing, especially with the reference to ch. 881.

12 **SECTION 21.** 25.17 (3) (dg) (intro.) of the statutes is amended to read:

13 25.17 (3) (dg) (intro.) Have authority to invest ~~the core retirement investment~~  
14 trust, state life insurance fund, veterans trust fund, injured patients and families  
15 compensation fund, and any funds included in the state investment fund, other than  
16 the industrial building construction loan fund, in:

\*\*\*\*NOTE: This draft provides that the local government property insurance fund (LCPIF) will not be part of the SIF. See created s. 25.14 (1) (a) 19. The LCPIF is also not included in the list of funds in s. 25.17 (3) (dg) (intro.). (See also the investment directive in s. 604.05.) Is this consistent with your intent?

\*\*\*\*NOTE: Do you wish to try to harmonize any of the partially inconsistent investment authority under s. 25.17 (3) (a), (b), and (dg)? For example, with respect to the SIF, the 10 year or less maturity in s. 25.17 (3) (b) 1. is in partial conflict with the 1

met  
14-16

year or less maturity in s. 25.17 (3) (dg) 1. If the presumption is that the former overrides the latter, why retain the latter in the statutes? (Or we could clarify the "overriding" in the statute by using a "notwithstanding ...", "subject to ...", or "except as provided in ...") A similar question may be posed with respect to the core retirement investment trust – investment authority with no maturity limit under created s. 25.17 (3) (a) 1. as opposed to the 10 year or less maturity limit under s. 25.17 (3) (dg) 1. And will World Bank bonds with a 1 year maturity in the core retirement investment trust be subject to a 2 % cap (s. 25.17 (3) (a) 12.) or not (s. 25.17 (3) (dg) 1.)? I would guess that SWIB has accounting guidelines for dealing with these questions, but as a drafting matter, we prefer to avoid such ambiguities in the statutes.

\*\*\*\*NOTE: As far as I know, the reference to "national credit office" in par. (dg) 2. is outdated and I believe commercial paper is now rated by the credit rating agencies. Do you want to change the reference to "national credit office"? Also, do you want to change the reference to Moody's and Standard & Poor's in s. 25.17 (3) (dg) 2.? It is my understanding that there are now 5 nationally recognized credit ratings agencies and that the intent behind the Credit Rating Agency Reform Act was to promote competition, ease registration and qualification, and try to increase the number of registered NRSROs in the future. Can we replace these tradenames with something like registered credit rating agency or nationally recognized statistical rating organization? See also earlier embedded note on NRSROs.

\*\*\*NOTE: Do you want to change "located in" in par. (dg) 3. to "doing business in"?

\*\*\*\*NOTE: One of the embedded notes under s. 25.17 (3) (b) also discusses s. 25.17 (3) (dg) 3. While various provisions specifically authorize SIF investments in CDs, as far as I can tell, because of the *change* made in *this bill* to s. 25.17 (3) (b) (intro.), par. (dg) 3. is the only *specific* authority for the core retirement investment fund to invest in CDs, and those CDs must be one year or less. (I assume that created s. 25.17 (3) (a) 9. would also provide authority, but the CD authority under that provision is not expressly set out and is subject to change by the Fed.) Is this consistent with your intent?

1        **SECTION 22.** 25.17 (3) (dm) of the statutes is repealed.

2        **SECTION 23.** 25.17 (3) (f) of the statutes is amended to read:

3        25.17 (3) (f) Every Hold every investment shall be held as an asset of the fund  
4        by which it is purchased and, except as otherwise provided by law, the loss or gain  
5        shall inure thereto.

6        **SECTION 24.** 25.17 (3) (g) of the statutes is amended to read:

7        25.17 (3) (g) All Have under its management and control all loans, securities,  
8        and other investments in which moneys of any such fund, including the general fund,  
9        are invested shall be under the management and control of the board.

10       **SECTION 25.** 25.17 (4) of the statutes is amended to read:

Insert  
15-9

1       25.17 (4) Invest the funds of the core retirement investment trust in loans,  
2 securities, or investments that are in addition to those permitted by any other  
3 statute, including investments in corporations or limited liability companies which  
4 are in the venture capital stage. The aggregate of the loans, securities, and  
5 investments made under this subsection shall not exceed 15 percent of the admitted  
6 total valuation of the assets of that trust as set forth in the last report made under  
7 sub. (14). Investments in corporations or limited liability companies which that are  
8 in the venture capital stage shall not exceed 2 percent of the admitted total valuation  
9 of the assets of that the core retirement investment trust as set forth in the last report  
10 made under sub. (14).

11       **SECTION 26.** 25.17 (5) of the statutes is amended to read:

12       25.17 (5) ~~The limitations upon the percentage of the assets of any fund that are~~  
13 ~~imposed by sub. (4) or any other statute shall not be applicable to investments made~~  
14 ~~by the board of funds in the variable retirement investment trust created under s.~~  
15 ~~40.04 (3) and those investments shall be excluded in computing the assets to which~~  
16 ~~the limitations imposed by sub. (4) apply. Assets~~ Invest the assets of the variable  
17 retirement investment trust ~~shall be invested~~ primarily in equity securities that  
18 shall include common stocks, real estate, or other recognized forms of equities  
19 whether or not subject to indebtedness, including securities convertible into common  
20 stocks and securities of corporations in the venture capital stage. The board may,  
21 however, temporarily invest assets of the variable retirement investment trust in  
22 investments that are authorized under sub. (3), but the assets so temporarily  
23 invested shall be replaced by equity securities at the earliest time considered by the  
24 board to be practicable considering the then existing condition of the securities  
25 market and other influential factors. Investments in securities of corporations that



1 are in the venture capital stage shall not exceed 2% 2 percent of the admitted total  
2 valuation of the assets of the variable retirement investment trust as set forth in the  
3 last report made under sub. (14). The limitations upon the percentage of the assets  
4 of any fund that are imposed by sub. (4) or any other statute shall not be applicable  
5 to investments made by the board of funds in the variable retirement investment  
6 trust and those investments shall be excluded in computing the assets to which the  
7 limitations imposed by sub. (4) apply.

\*\*\*\*NOTE: I have revised this subsection to fit with the (intro.) to s. 25.17.

\*\*\*\*NOTE: As discussed in the drafter's note, the various meanings of the word "fund(s)" in ch. 25 and the intermittent inclusion and exclusion of "trust" from the meaning of "fund" creates ambiguities in ch. 25. The first sentence of s. 25.17 (5) under current law is an example of this: "The limitations upon the percentage of the assets of any fund that are imposed by sub. (4) or any other statute shall not be applicable to investments made by the board of funds in the variable retirement investment trust created under s. 40.04 (3) and those investments shall be excluded in computing the assets to which the limitations imposed by sub. (4) apply." As I understand it, unlike the SIF, the core retirement investment trust is not made up of other "funds," so there is only one "trust," and no "fund," under sub. (4). In reorganizing sub. (5), I have repeated the existing language. Do you want to replace "any fund" with "any fund or trust"?

8 **SECTION 27.** 25.17 (6) of the statutes is amended to read:

9 25.17 (6) Notwithstanding any other statute, have authority to make transfers  
10 from the variable retirement investment trust to the core retirement investment  
11 trust under s. 40.04 (7) may be made in cash or securities or both, as determined by  
12 the board. The board shall determine market values for securities in the variable  
13 retirement investment trust as of the close of business on the last working day  
14 preceding a transfer. If securities are transferred, to the extent determined feasible  
15 by the board, a proportionate amount of all securities in even hundreds of shares of  
16 stock or even thousands of par value of bonds in the variable retirement investment  
17 trust shall be transferred. The board may hold or sell the transferred securities as  
18 it determines appropriate considering market and economic conditions. ~~Any~~  
19 ~~limitation on the percentage of assets in common stocks or in the stock of one~~

Strike  
sentence

~~company does not apply to the transferred securities, except the board shall, at such~~  
~~time as it determines that market, economic and other conditions are appropriate~~  
~~to the sale of the securities, sell sufficient transferred securities so as to comply with~~  
~~percentage of asset limitations.~~

*strike*  
*strike*  
*strike sentence*

\*\*\*NOTE: I have revised this subsection to fit with the (intro.) to s. 25.17.

**SECTION 28.** 25.17 (7) (a) and (b) of the statutes are amended to read:

25.17 (7) (a) Mortgages on real estate outside of this state may be made to, and the title to real estate outside of this state may be acquired in the name of, a trustee under a trust agreement between the board and a bank, credit union, savings and loan association, savings bank, or trust company organized under the laws of the United States or any state having a combined capital and surplus of at least \$25,000,000; and any such mortgages or real estate acquired prior to June 24, 1966, may be assigned or conveyed to the trustee under an appropriate trust agreement between it and the board.

(b) Loans, securities, and investments may be purchased or held in the name of, or transferred to nominees of, one or more banks or trust companies meeting the requirements of this section paragraph under a custodial agreement between the board and each such bank or trust company. Any such bank or trust company shall be organized under the laws of the United States or any state thereof and any such bank or trust company not located doing business in Wisconsin shall have a combined capital surplus and undivided profits of at least \$100,000,000. Foreign loans, securities, and investments may be purchased or held in the name of, or transferred to nominees of, foreign sub-custodians of any such bank or trust company.

**SECTION 29.** 25.17 (10) of the statutes is amended to read:

*for under s. 25.1823*  
*(a) and*  
*delete strike*  
1        25.17 (10) If a building constitutes any part of the security for a loan made by  
2        the board under <sup>SS.</sup> ~~s. 25.17 (3) (bh) or 620.22 (2) (a) 2~~ keep the building shall be kept  
3        insured for at least the unpaid amount of the loan or any larger amount that may be  
4        necessary to comply with any coinsurance clause inserted in or attached to the policy.  
5        When the full insurable value of the building is less than the unpaid amount of the  
6        loan, the building shall be kept insured for the full insurable value of the building.

\*\*\*\*NOTE: Do you want to include in the underscored cross-reference here s. 25.17  
(3) (ba) and/or (bd)?

7        **SECTION 30.** 25.17 (12) (a) and (b) of the statutes are amended to read:

8        25.17 (12) (a) The commissioner of insurance in the investment of the state  
9        local government property insurance fund;

10        (b) The commissioner of insurance, the state treasurer, the secretary of state  
11        and the attorney general in the investment of the state life insurance fund;

\*\*\*\*NOTE: Referring to s. 25.17 (12) (c), is the "soldiers rehabilitation fund" still  
viable? It appears from s. 25.36 (1) that it is something that existed prior to 1961. Do you  
want me to repeal s. 25.17 (12) (c) or, if not, do you want me to get rid of the mistaken  
apostrophe in "soldiers"? If this provision is repealed because it is no longer necessary,  
this would not affect the succession authority provided to SWIB prior to repeal. See s.  
990.03 (2). ~~This same statement could be made of s. 25.17 (13).~~

*Insert 19-12*  
\*\*\*\*NOTE: Do you want the report under s. 25.17 (14m) to, in par. (b), also report  
on the use of derivatives authorized under created s. 25.178?

12        **SECTION 31.** 25.17 (15) of the statutes is repealed.

\*\*\*\*NOTE: In s. 25.17 (59), with respect to the minority-owned public depository,  
do you want to change "located in" to "doing business in"?

13        **SECTION 32.** 25.17 (63) of the statutes is created to read:

14        25.17 (63) If requested by the Health Insurance Risk-Sharing Plan Authority,  
15        invest funds of the Health Insurance Risk-Sharing Plan Authority in the state  
16        investment fund.

17        **SECTION 33.** 25.17 (65) of the statutes is repealed.

\*\*\*\*NOTE: I understand this repeal is intended to be a nonsubstantive clean up rather than a change in investment authority. If so, do you want to add "industrial building construction loan fund" to the list of excepted funds in s. 25.17 (2) (a)?

1       **SECTION 34.** 25.17 (70) (intro.) of the statutes is amended to read:

2       25.17 (70) (intro.) No later than ~~June 30~~ December 31 of every ~~odd-numbered~~  
3 even-numbered year, after receiving a report from the department of commerce  
4 under s. 560.08 (2) (m) and in consultation with the department of commerce, submit  
5 to the governor and to the presiding officer of each house of the legislature a plan for  
6 making investments in this state. The purpose of the plan is to encourage the board  
7 to make the maximum amount of investments in this state, subject to s. 25.15 and  
8 consistent with the statutory purpose of each trust or fund managed by the board.  
9 The plan shall discuss potential investments to be made during the ~~first to 5th fiscal~~  
10 years following 5 calendar years beginning with the year after submittal, and shall  
11 include, but not be limited to, the following:

\*\*\*\*NOTE: Assuming that SWIB submitted its plan by June 30, 2007 and that this bill is enacted this session, SWIB would submit another plan by December 31, 2008. Is that OK? Otherwise, with respect to this change and the change in s. 560.08 (2) (m), we could create a nonstatutory transitional provision allowing, when the "switchover" occurs, a roughly 3-year gap between plans instead of submitting plans in two successive years.

12       **SECTION 35.** 25.17 (70) (b) (intro.) of the statutes is amended to read:

13       25.17 (70) (b) (intro.) Nonbinding management objectives for each fiscal  
14 calendar year stated, as appropriate, as a dollar amount or as a percentage of the  
15 total amount of all investments made by the board, for the following:

\*\*\*\*NOTE: Referring to s. 25.17 (70) (b) 3. d., do you perceive a significant difference between "substantial operations" here and "doing business" in s. 25.17 (3) (b) 4. and 7. If not, do you want to standardize the terms by replacing the term "substantial operations" with "doing business"?

16       **SECTION 36.** 25.17 (70) (d) of the statutes is amended to read:

17       25.17 (70) (d) Comments solicited from the secretary of commerce and received  
18 by the board on or before ~~May 31~~ November 30 of the year of submittal.

**SECTION 37.** 25.175 of the statutes is created to read:

**25.175 Changes in qualification of investments.** Any investment originally made under s. 25.17 (3) (a) 15. or 25.17 (4) may be considered as falling within any other class of investment for which it subsequently qualifies.

\*\*\*\*NOTE: Should s. 25.17 (3) (bd) be included as a cross-reference here?

\*\*\*\*NOTE: In earlier embedded notes, I asked how an investment would be considered if it fell within two separate authorizing provisions, one of which contains a cap and one of which does not. I do not believe this provision covers that situation, because this provision contemplates a change in circumstance ("originally made ... subsequently qualifies.")

**SECTION 38.** 25.178 of the statutes is created to read:

**25.178 Authorized derivatives.** As an authorized investment in the core retirement investment trust and the variable retirement investment trust, the board may enter into any financial contract or other instrument that derives its value from the value or performance of any security, instrument, currency, commodity, currency exchange rate, or interest rate, or of any index or group of any securities, instruments, currencies, commodities, currency exchange rates, or interest rates, if all of the following apply:

\*\*\*\*NOTE: In one place in the instructions, the term "exchange rate" is used. I have assumed that this term is intended to apply only to a currency exchange rate. Please advise if I have assumed incorrectly.

**(1)** The contract or other instrument is entered into to protect the investment portfolio against the risk of changing asset values or interest rates, to enhance its liquidity, to aid in cash flow management, as a substitute for cash market transactions, or for any other purpose consistent with the investment objectives for the assets of the trust.

**(2)** If the contract or other instrument derives its value from the value or performance of a security, instrument, currency, or commodity, the amount of the security, instrument, currency, or commodity, when aggregated with current

1 holdings, would be an authorized investment under this chapter and would not  
2 exceed any limitations specified in this chapter.

3 (3) The members of the board, or of any authorized committee of the board,  
4 approve a plan relating to contracts or other instruments under this section that does  
5 all of the following:

6 (a) Specifies policy objectives and strategies.

7 (b) Establishes aggregate maximum limits, including limits on volatility and  
8 potential loss exposure for time periods identified in the plan.

9 (c) Establishes internal control procedures.

10 (d) Identifies the duties, expertise, and limits of authority of personnel  
11 authorized by the members of the board, or of any authorized committee of the board,  
12 to enter into contracts or other instruments under this section on behalf of the board.

\*\*\*\*NOTE: Would it be better to try to harmonize (in part) the definition of  
derivative, rather than create language that looks like the definition in s. 25.183 (1) (a)  
(intro.) but varies somewhat from that definition? One possibility would be to put a  
definition in s. 25.01, but, for purposes of s. 25.183, retain the exclusions from the  
definition in s. 25.183 (1) (a) 1. to 7.

13 **SECTION 39.** 25.18 (1) (intro.) and (e) of the statutes <sup>15</sup>are amended to read:

14 25.18 (1) (intro.) In addition to the powers and duties enumerated in s. 25.17,  
15 but subject to s. ss. 25.178 and 25.183, the board may, with respect to all the funds  
16 it has authority to invest:

\*\*\*\*NOTE: While created s. 25.178 authorizes certain derivative transactions, that  
authorization is proscribed by certain parameters, similar to s. 25.183. Accordingly, it  
seems to me that if s. 25.183 is cross-referenced here, created s. 25.178 should be too.

\*\*\*\*NOTE: As discussed in the drafter's note and in previous embedded notes, trying  
to decipher the meaning of "funds" in ch. 25 presents a challenge. In the underscored  
language above (provided in the instructions), I assume the meaning of "funds" is not  
moneys but rather the funds identified in s. 25.17 (1). This leads to the question of  
whether "funds" includes "trusts." There seems to be considerable inconsistency  
throughout ch. 25 on this issue. In many provisions, "trust" is specifically identified. See,  
for example, ss. 25.15 (1) ("purpose of each trust or fund"), 25.17 (70) (intro.) ("each trust  
or fund managed by the board"), and 25.18 (2) (e) 1. ("any fund or trust"). In the various  
created subdivisions of s. 25.17 (3) (a) of this draft, I used the phrase "fund or trust" to  
retain consistency with s. 25.17 (3) (a) (intro.) Within s. 25.18 (1), pars. (c) and (d) use

material  
moved  
from p. 23  
goes here

"funds or trusts" / "fund or trust," but pars. (a), (f), and (m) refer only to "fund"; par. (a) reads, "Any expense of counsel so employed shall be borne by the fund for which the services shall be furnished." Par. (a) could therefore be interpreted to mean that the term "fund" includes the core retirement investment trust (the most reasonable interpretation) or that counsel may not be employed to furnish services to the core retirement investment trust or at least the charge for these services cannot be made to the trust. Here, I have included the suggested change in the instructions to s. 25.18 (1) (intro.) *without* adding the word "or trust" because of the "ripple effect" of doing so; to add "or trust" into the (intro.) of s. 25.18 (1) without also amending s. 25.18 (1) (a), (f), and (m) in my view adds to the uncertainty of the meaning of these provisions vis-a-vis the core retirement investment trust and the variable retirement investment trust. Do you want me to make any changes to the underscored s. 25.18 (1) (intro.) and/or s. 25.18 (1) (a), (f), and (m)?

(e) Take such action as may be necessary to make investments in mortgage loans or in the purchase of interests in real estate in any other state or in Canada any other developed country in which investment is authorized, including but not excluding because of enumeration, qualifying to do business, filing reports, paying franchise, license or other fees and taxes, designating agents, designating an office and subjecting itself to suit.

\*\*\*NOTE: I have omitted the treatment included in the instructions of s. 25.18 (1) (f). This suggested treatment made a very minor grammatical change to the paragraph. I omitted this treatment upon advice of our lead editor that a grammatical change is not necessary.

**SECTION 40.** 25.18 (1) (fa) and (ha) of the statutes are created to read:

25.18 (1) (fa) Provide a guaranty, letter of credit, or other type of security as credit support for the potential liabilities and obligations of an entity through which the board holds title to assets for the purpose of limiting the board's liability if the guaranty, letter of credit, or other type of security does not exceed 10 percent of the gross asset value of the entity.

(ha) Sell short any of the securities and investments in which the core retirement investment trust, the variable retirement investment trust, or the injured patients and families compensation fund may invest under this chapter.

\*\*\*NOTE: I assume par. (ha) is limited to assets of the 3 identified trusts or funds and is intended to allow unrestricted short sales for each indicated trust or fund, even if SWIB neither holds nor has right to acquire the underlying security that will be used to



cover the short sale. If so, perhaps a "notwithstanding par. (h)" should be added to the beginning of this provision.

\*\*\*NOTE: With regard to investment authority for the permanent endowment fund in s. 25.18 (1) (o), should the cross-reference relating to the core retirement investment trust be "s. 25.17 (3) (a) or (4)"? One could read the current statute to be limited to the "other" investments (the ones subject to the 15% cap) for which sub. (4) provides investment authority.

**SECTION 41.** 25.182 of the statutes is created to read:

**25.182 Investment authority for certain funds.** In addition to the

investment authority provided under any other provision of law, and

notwithstanding any limitation on the board's investment authority provided under

any other provision of law, the board shall have authority to execute the disposition

and investment, in any manner that does not violate the standard of responsibility

specified in s. 25.15 (2), of all of the following:

(1) The core retirement investment trust and

(2) The variable retirement investment trust;

(3) The injured patients and families compensation fund.

(4) The state life insurance fund.

(5) The local government property insurance fund.

(6) The veterans trust fund.

(7) All funds of the historical society that are available for investment as determined by the society.

(8) The funds included in the state investment fund, other than the industrial building construction loan fund.

\*\*\*NOTE: The instructions included this provision as created s. 25.15 (2) (d). However, this provision does not fit with the (intro.) to s. 25.15 (2). To me, the subject matter of this provision (investment authority) seems more similar to ss. 25.17 and 25.18 than s. 25.15 (2). Accordingly, I have created the provision as s. 25.182.

\*\*\*NOTE: I assume that the reference in the instructions to the "historical society funds" is derived from s. 25.17 (3) (c), so I have tracked the language of s. 25.17 (3) (c) in created sub. (7) here. I further assume that the specific funds contemplated are the historical society trust fund, the historical society endowment fund, and the history



preservation partnership trust fund, but not the historical legacy trust fund. Is this correct? Also, I would prefer to specifically identify these funds in the statute if that is okay with you.

\*\*\*\*NOTE: Am I correct in understanding the intent of this provision as "overriding" all other investment authority? If my understanding is correct, I find it difficult to understand why the statutes should set forth investment authority with such specificity, including certain asset caps in funds and trusts, if there is to be an overriding "global" authority for the vast majority of SWIB's investments that essentially nullifies these other provisions. If my understanding of created s. 25.182 is correct, most of the other investment authority provisions of ch. 25 will be rendered meaningless except possibly as "evidence" to make a "per se" finding that a certain investment is within the standard of responsibility, and no asset cap will have any operative effect. While litigants may plead "in the alternative," this is a very unusual (and confusing) statutory approach.

~~\*\*\*\*NOTE: Following up on the preceding embedded note, the common school fund, normal school fund, university fund, and agricultural college fund are each part of the SIF, and are therefore covered under created s. 25.182 (8). Under s. 24.61 (2) (c), each of these funds may only be invested in fixed income investments. Without amending or repealing this provision, created s. 25.182 (8) overrides this provision and renders it a nullity.~~

\*\*\* NOTE: I don't really understand how the depository provisions of ch. 34 are carried out with respect to SWIB. (I am aware that SWIB has a general custodial agreement with Bank of New York Mellon (if I recall correctly), but I'm not sure how broad this is.) Referring to ss. 25.19 (3) and 34.045 (1) (bm), do these bank service costs ever come into play for SWIB? If so, should they be identified as an exclusion from "operating expenditures" under s. 25.187 (1) (see s. 34.045 (1) (bm))?

**SECTION 42.** 560.08 (2) (m) of the statutes is amended to read:

560.08 (2) (m) No later than January 1 November 30 of each ~~odd-numbered~~  
even-numbered year, submit to the investment board a report describing the types  
of investments in businesses in this state which will have the greatest likelihood of  
enhancing economic development in this state.

(END)

D-Note

**2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3122/P1ins

ARG:.....

SA✓

**INSERT ANAL:**

This bill makes all of the following changes with respect to the State of Wisconsin Investment Board (SWIB):

1. Under current law, SWIB has authority to manage and invest Wisconsin Retirement System contributions, which comprise the public employee trust fund. A core retirement investment trust (core trust) and a variable retirement investment trust (variable trust) are maintained in the public employee trust fund. SWIB may invest assets of the core trust and the variable trust in specific classes of investments enumerated by statute (authorized list). This bill eliminates provisions limiting SWIB's investment authority for the core trust and the variable trust to the authorized list. In lieu of specifying an authorized list, the bill authorizes SWIB to manage the money and property of the core trust and the variable trust in any manner that does not violate SWIB's standard of responsibility, which is the professional standard of responsibility described in item 2., below. ~~As under current law, assets in the variable trust must be primarily invested in equity securities.~~

2. The bill slightly modifies SWIB's statutory standard of responsibility for investments. Under the bill, SWIB's standard of responsibility in managing money and property is: (1) to manage the money and property with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a similar capacity, with the same resources, and familiar with like matters, exercises in the conduct of an enterprise of a like character with like aims; (2) to diversify investments in order to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so, considering each trust's or fund's portfolio as a whole at any point in time; and (3) to administer assets of each trust or fund solely for the purpose of ensuring the fulfillment of the purpose of each trust or fund at a reasonable cost and not for any other purpose. The bill clarifies that this standard of responsibility applies to SWIB with two exceptions and that, with one exception, the statutory investment standard for a personal representative, trustee, conservator, or guardian of an estate (estate standard) does not apply to SWIB. Under one exception, the estate standard rather than SWIB's statutory standard of responsibility applies in investing historical society funds. Under another exception, in certain instances where SWIB has management authority over an entity's assets but that entity has authority to direct the terms and conditions of SWIB's investments, SWIB is relieved of its statutory standard of responsibility.

3. Under current law, the building commission may direct that moneys resulting from certain public debt be deposited in funds or accounts created or designated by a building commission resolution. Moneys deposited or held in these funds or accounts may be invested in any obligations specified by a building commission resolution. This bill specifies that SWIB must invest these funds as provided by the building commission resolution and, in doing so, is relieved of its statutory standard of responsibility.

4. The bill requires SWIB, if requested by the the Health Insurance Risk-Sharing Plan Authority (HIRSP Authority), to invest funds of the HIRSP Authority in the state investment fund (SIF). ✓

5. Under current law, SWIB may invest the funds included in the SIF in loans secured by U.S. government obligations having a maturity of <sup>five</sup> 5 years or less if the principal amount of each loan does not exceed 98 percent of the market value of the collateral. This bill modifies this investment authority and authorizes SWIB to invest the funds included in the SIF in loans, including repurchase agreements, that are collateralized by certain classes of authorized investments if the market value of the collateral security is at least 102 percent of the principal amount of the loan or an amount established by SWIB by rule. ✓

6. The bill specifies that SWIB may invest in certain instruments of financial institutions that are "doing business" in this state or the United States, rather than "located" in this state or the United States. The bill also makes other minor modifications to SWIB's investment authority. ✓

7. The bill specifies that provisions of current law related to lawsuits against public officers and employees also apply to the members of ~~the board of~~ SWIB (SWIB trustees), including provisions related to payment of judgments against public officers or employees acting in their official capacity or carrying out public duties. The bill also specifically authorizes SWIB trustees to secure directors' liability insurance in amounts reasonably expected to be adequate. ✓

8. The bill specifies that certain statutorily created funds are not included in the SIF. ✓

9. Current law requires SWIB's executive director, chief investment officer, and each investment director to file a bond for the faithful performance of that person's duties. Under this bill, a performance bond is required of these individuals only if required by the SWIB trustees. ✓

10. The bill modifies the schedule for a certain biennial reporting requirement of SWIB relating to investments in this state. ✓

11. The bill includes additional changes to clarify and modernize certain statutory provisions, as well as nonsubstantive and technical changes. ✓

**Definitions**

**INSERT 2-3:**

**SECTION 1.** 25.01 of the statutes is amended to read:

**25.01** ~~Definition~~. In this chapter, unless the context requires otherwise,

"board": (1) "Board" means the investment board.

History: 1999 a. 83.

**SECTION 2.** 25.01 (2) of the statutes is created to read:

fix component

(intro.)

renumbered 25.01 (intro.) and

9

plain period

25.01 (2) "Fund," when referring generally to funds included under s. 25.17 (1), includes a trust.

**INSERT 3-8:**

**SECTION 3.** 25.15 (2) (a) of the statutes is amended to read:

25.15 (2) (a) To ~~invest, sell, reinvest and collect income and rents~~ manage the money and property with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a similar capacity, with the same resources, and familiar with like matters exercises in the conduct of an enterprise of a like character with like aims.

History: 1983 a. 27; 1989 a. 31, 359; 1999 a. 83; 2001 a. 7.

**INSERT 4-16:**

**SECTION 4.** 25.17 (1) (jt) of the statutes is created to read:

25.17 (1) (jt) Mediation fund (s. 655.68);

**INSERT 5-1:**

**SECTION 5.** 25.17 (2) (a) of the statutes is amended to read:

25.17 (2) (a) ~~Invest~~ Have authority to invest any of the funds specified in sub. (1), except operating funds, the capital improvement fund ~~and~~ the bond security and redemption fund, the industrial building construction loan fund, and any redemption fund established under s. 18.561 (5) or 18.562 (3). in loans to the Wisconsin University Building Corporation, the Wisconsin State Colleges Building Corporation or the Wisconsin State Public Building Corporation, but only if the loans are secured by mortgages upon property owned by the respective corporations producing sufficient income to retire the mortgage over the term of the loan or are secured by the pledge of rentals sufficient in amount to retire the indebtedness. The board shall make no loans to any building corporation described in this subsection

except under the conditions prescribed in this paragraph, or except as otherwise provided in par. (b). These loans shall be made only when in the judgment of the board it is to the interest of the funds to do so, except that loans made under par. (b) shall be made at the direction of the building commission.

**History:** 1971 c. 41 s. 12; 1971 c. 74; 1971 c. 100 s. 23; 1971 c. 125 s. 522 (1); 1971 c. 164; 1971 c. 214 s. 147; 1971 c. 260 s. 92 (3) to (5); 1973 c. 117, 137, 151; 1973 c. 208 s. 17; 1973 c. 209, 333, 336; 1975 c. 26, 27, 39, 118, 147, 164, 180, 189, 200, 422; 1977 c. 29 ss. 439 to 439f, 1654 (1); 1977 c. 31, 107, 377, 418, 423; 1979 c. 32; 1979 c. 34 ss. 705 to 707b, 2102 (56) (a); 1979 c. 102; 1979 c. 109 s. 16; 1979 c. 221; 1979 c. 318 ss. 1 to 3; 1979 c. 361 s. 113; 1981 c. 20, 86; 1981 c. 96 ss. 18 to 21, 67; 1981 c. 169, 386; 1983 a. 27; 1983 a. 36 ss. 31, 96 (4); 1983 a. 81 s. 11; 1983 a. 83 s. 20; 1983 a. 142, 189, 192, 368, 410; 1985 a. 25, 29, 53, 120; 1985 a. 332 s. 251 (1); 1987 a. 27, 38, 119, 186, 252, 399; 1989 a. 13, 31, 64, 187, 307, 335, 359, 366; 1991 a. 32, 38, 39, 152, 174, 221, 269, 315; 1993 a. 16, 112, 263, 477; 1995 a. 27 ss. 1394m to 1396, 9116 (5); 1995 a. 56, 213, 227, 274, 403; 1997 a. 27, 35, 191; 1999 a. 9, 11, 63, 65, 83, 167, 196; 2001 a. 7, 13, 16, 92, 104, 109; 2003 a. 33, 35, 48, 91, 111, 299; 2005 a. 1, 22, 25, 74, 153, 172, 335, 441, 478.

### INSERT 7-10:

**SECTION 6.** 25.17 (3) (a) of the statutes is amended to read:

25.17 (3) (a) ~~Invest the core retirement investment trust, Have authority to~~  
invest the state life insurance fund, local government property insurance fund,  
veterans trust fund, and injured patients and families compensation fund in loans,  
securities, and any other investments authorized by s. 620.22, and in bonds or other  
evidences of indebtedness or preferred stock of companies engaged in the finance  
business whether as direct lenders or as holding companies owning subsidiaries  
engaged in the finance business. ~~Investments permitted by sub. (4) are permitted~~  
~~investments under this subsection.~~

**History:** 1971 c. 41 s. 12; 1971 c. 74; 1971 c. 100 s. 23; 1971 c. 125 s. 522 (1); 1971 c. 164; 1971 c. 214 s. 147; 1971 c. 260 s. 92 (3) to (5); 1973 c. 117, 137, 151; 1973 c. 208 s. 17; 1973 c. 209, 333, 336; 1975 c. 26, 27, 39, 118, 147, 164, 180, 189, 200, 422; 1977 c. 29 ss. 439 to 439f, 1654 (1); 1977 c. 31, 107, 377, 418, 423; 1979 c. 32; 1979 c. 34 ss. 705 to 707b, 2102 (56) (a); 1979 c. 102; 1979 c. 109 s. 16; 1979 c. 221; 1979 c. 318 ss. 1 to 3; 1979 c. 361 s. 113; 1981 c. 20, 86; 1981 c. 96 ss. 18 to 21, 67; 1981 c. 169, 386; 1983 a. 27; 1983 a. 36 ss. 31, 96 (4); 1983 a. 81 s. 11; 1983 a. 83 s. 20; 1983 a. 142, 189, 192, 368, 410; 1985 a. 25, 29, 53, 120; 1985 a. 332 s. 251 (1); 1987 a. 27, 38, 119, 186, 252, 399; 1989 a. 13, 31, 64, 187, 307, 335, 359, 366; 1991 a. 32, 38, 39, 152, 174, 221, 269, 315; 1993 a. 16, 112, 263, 477; 1995 a. 27 ss. 1394m to 1396, 9116 (5); 1995 a. 56, 213, 227, 274, 403; 1997 a. 27, 35, 191; 1999 a. 9, 11, 63, 65, 83, 167, 196; 2001 a. 7, 13, 16, 92, 104, 109; 2003 a. 33, 35, 48, 91, 111, 299; 2005 a. 1, 22, 25, 74, 153, 172, 335, 441, 478.

### INSERT 13-1:

4. Certificates of deposit that are issued by banks ~~located~~ doing business in the  
United States and by savings and loan associations, savings banks, and credit unions  
located doing business in this state or that are issued by solvent financial institutions

doing business in this state. The board shall establish guidelines that a financial institution must meet to qualify under this subdivision. ✓

**History:** 1971 c. 41 s. 12; 1971 c. 74; 1971 c. 100 s. 23; 1971 c. 125 s. 522 (1); 1971 c. 164; 1971 c. 214 s. 147; 1971 c. 260 s. 92 (3) to (5); 1973 c. 117, 137, 151; 1973 c. 208 s. 17; 1973 c. 209, 333, 336; 1975 c. 26, 27, 39, 118, 147, 164, 180, 189, 200, 422; 1977 c. 29 ss. 439 to 439f, 1654 (1); 1977 c. 31, 107, 377, 418, 423; 1979 c. 32; 1979 c. 34 ss. 705 to 707b, 2102 (56) (a); 1979 c. 102; 1979 c. 109 s. 16; 1979 c. 221; 1979 c. 318 ss. 1 to 3; 1979 c. 361 s. 113; 1981 c. 20, 86; 1981 c. 96 ss. 18 to 21, 67; 1981 c. 169, 386; 1983 a. 27; 1983 a. 36 ss. 31, 96 (4); 1983 a. 81 s. 11; 1983 a. 83 s. 20; 1983 a. 142, 189, 192, 368, 410; 1985 a. 25, 29, 53, 120; 1985 a. 332 s. 251 (1); 1987 a. 27, 38, 119, 186, 252, 399; 1989 a. 13, 31, 64, 187, 307, 335, 359, 366; 1991 a. 32, 38, 39, 152, 174, 221, 269, 315; 1993 a. 16, 112, 263, 477; 1995 a. 27 ss. 1394m to 1396, 9116 (5); 1995 a. 56, 213, 227, 274, 403; 1997 a. 27, 35, 191; 1999 a. 9, 11, 63, 65, 83, 167, 196; 2001 a. 7, 13, 16, 92, 104, 109; 2003 a. 33, 35, 48, 91, 111, 299; 2005 a. 1, 22, 25, 74, 153, 172, 335, 441, 478.

**INSERT 13-10:**

**SECTION 7.** 25.17 (3) (b) 7. of the statutes is repealed. ✕

**INSERT 14-16:**

**SECTION 8.** 25.17 (3) (dg) (intro.) of the statutes is repealed. ✕

**SECTION 9.** 25.17 (3) (dg) 1. of the statutes is renumbered 25.17 (3) (b) 1m. and amended to read:

25.17 (3) (b) 1m. ~~Direct obligations of the United States and of agencies of and corporations wholly owned by the United States, and direct obligations of federal land banks, federal home loan banks, central bank for cooperatives, and banks for cooperatives or unincorporated cooperative associations, international bank for reconstruction and development, the international finance corporation, inter-American development bank, African development bank and Asian development bank, in each case maturing within one year or less from the date of investment.~~ <sup>the</sup>

**History:** 1971 c. 41 s. 12; 1971 c. 74; 1971 c. 100 s. 23; 1971 c. 125 s. 522 (1); 1971 c. 164; 1971 c. 214 s. 147; 1971 c. 260 s. 92 (3) to (5); 1973 c. 117, 137, 151; 1973 c. 208 s. 17; 1973 c. 209, 333, 336; 1975 c. 26, 27, 39, 118, 147, 164, 180, 189, 200, 422; 1977 c. 29 ss. 439 to 439f, 1654 (1); 1977 c. 31, 107, 377, 418, 423; 1979 c. 32; 1979 c. 34 ss. 705 to 707b, 2102 (56) (a); 1979 c. 102; 1979 c. 109 s. 16; 1979 c. 221; 1979 c. 318 ss. 1 to 3; 1979 c. 361 s. 113; 1981 c. 20, 86; 1981 c. 96 ss. 18 to 21, 67; 1981 c. 169, 386; 1983 a. 27; 1983 a. 36 ss. 31, 96 (4); 1983 a. 81 s. 11; 1983 a. 83 s. 20; 1983 a. 142, 189, 192, 368, 410; 1985 a. 25, 29, 53, 120; 1985 a. 332 s. 251 (1); 1987 a. 27, 38, 119, 186, 252, 399; 1989 a. 13, 31, 64, 187, 307, 335, 359, 366; 1991 a. 32, 38, 39, 152, 174, 221, 269, 315; 1993 a. 16, 112, 263, 477; 1995 a. 27 ss. 1394m to 1396, 9116 (5); 1995 a. 56, 213, 227, 274, 403; 1997 a. 27, 35, 191; 1999 a. 9, 11, 63, 65, 83, 167, 196; 2001 a. 7, 13, 16, 92, 104, 109; 2003 a. 33, 35, 48, 91, 111, 299; 2005 a. 1, 22, 25, 74, 153, 172, 335, 441, 478.

**SECTION 10.** 25.17 (3) (dg) 2. of the statutes is renumbered 25.17 (3) (b) 7m. and amended to read: ✕

25.17 (3) (b) 7m. Commercial paper maturing within one year or less from the date of investment and rated prime by ~~the national credit office~~ a nationally

recognized statistical rating organization, if the issuing corporation has one or more long-term senior debt issues outstanding, each of which has one of the 3 highest ratings issued by ~~Moody's investors service or Standard & Poor's corporation a~~ nationally recognized statistical rating organization.

**History:** 1971 c. 41 s. 12; 1971 c. 74; 1971 c. 100 s. 23; 1971 c. 125 s. 522 (1); 1971 c. 164; 1971 c. 214 s. 147; 1971 c. 260 s. 92 (3) to (5); 1973 c. 117, 137, 151; 1973 c. 208 s. 17; 1973 c. 209, 333, 336; 1975 c. 26, 27, 39, 118, 147, 164, 180, 189, 200, 422; 1977 c. 29 ss. 439 to 439f, 1654 (1); 1977 c. 31, 107, 377, 418, 423; 1979 c. 32; 1979 c. 34 ss. 705 to 707b, 2102 (56) (a); 1979 c. 102; 1979 c. 109 s. 16; 1979 c. 221; 1979 c. 318 ss. 1 to 3; 1979 c. 361 s. 113; 1981 c. 20, 86; 1981 c. 96 ss. 18 to 21, 67; 1981 c. 169, 386; 1983 a. 27; 1983 a. 36 ss. 31, 96 (4); 1983 a. 81 s. 11; 1983 a. 83 s. 20; 1983 a. 142, 189, 192, 368, 410; 1985 a. 25, 29, 53, 120; 1985 a. 332 s. 251 (1); 1987 a. 27, 38, 119, 186, 252, 399; 1989 a. 13, 31, 64, 187, 307, 335, 359, 366; 1991 a. 32, 38, 39, 152, 174, 221, 269, 315; 1993 a. 16, 112, 263, 477; 1995 a. 27 ss. 1394m to 1396, 9116 (5); 1995 a. 56, 213, 227, 274, 403; 1997 a. 27, 35, 191; 1999 a. 9, 11, 63, 65, 83, 167, 196; 2001 a. 7, 13, 16, 92, 104, 109; 2003 a. 33, 35, 48, 91, 111, 299; 2005 a. 1, 22, 25, 74, 153, 172, 335, 441, 478.

**SECTION 11.** 25.17 (3) (dg) 3. of the statutes is repealed. ✕

**INSERT 15-9:**

**SECTION 12.** 25.17 (4) of the statutes is repealed. ✕

**SECTION 13.** 25.17 (5) of the statutes is amended to read:

25.17 (5) ~~The limitations upon the percentage of the assets of any fund that are imposed by sub. (4) or any other statute shall not be applicable to investments made by the board of funds in the variable retirement investment trust created under s. 40.04 (3) and those investments shall be excluded in computing the assets to which the limitations imposed by sub. (4) apply. Assets~~ Invest the assets of the variable retirement investment trust shall be invested created under s. 40.04 (3) primarily in equity securities that shall may include common stocks, real estate or other recognized forms of equities whether or not subject to indebtedness, including securities convertible into common stocks and securities of corporations in the venture capital stage. The board may, however, temporarily invest assets of the variable retirement investment trust in investments that are authorized under sub. (3), but the assets so temporarily invested shall be replaced by equity securities at the earliest time considered by the board to be practicable considering the then existing condition of the securities market and other influential factors. ~~Investments~~

~~in securities of corporations that are in the venture capital stage shall not exceed 2% of the admitted assets of the variable retirement investment trust.~~

**History:** 1971 c. 41 s. 12; 1971 c. 74; 1971 c. 100 s. 23; 1971 c. 125 s. 522 (1); 1971 c. 164; 1971 c. 214 s. 147; 1971 c. 260 s. 92 (3) to (5); 1973 c. 117, 137, 151; 1973 c. 208 s. 17; 1973 c. 209, 333, 336; 1975 c. 26, 27, 39, 118, 147, 164, 180, 189, 200, 422; 1977 c. 29 ss. 439 to 439f, 1654 (1); 1977 c. 31, 107, 377, 418, 423; 1979 c. 32; 1979 c. 34 ss. 705 to 707b, 2102 (56) (a); 1979 c. 102; 1979 c. 109 s. 16; 1979 c. 221; 1979 c. 318 ss. 1 to 3; 1979 c. 361 s. 113; 1981 c. 20, 86; 1981 c. 96 ss. 18 to 21, 67; 1981 c. 169, 386; 1983 a. 27; 1983 a. 36 ss. 31, 96 (4); 1983 a. 81 s. 11; 1983 a. 83 s. 20; 1983 a. 142, 189, 192, 368, 410; 1985 a. 25, 29, 53, 120; 1985 a. 332 s. 251 (1); 1987 a. 27, 38, 119, 186, 252, 399; 1989 a. 13, 31, 64, 187, 307, 335, 359, 366; 1991 a. 32, 38, 39, 152, 174, 221, 269, 315; 1993 a. 16, 112, 263, 477; 1995 a. 27 ss. 1394m to 1396, 9116 (5); 1995 a. 56, 213, 227, 274, 403; 1997 a. 27, 35, 191; 1999 a. 9, 11, 63, 65, 83, 167, 196; 2001 a. 7, 13, 16, 92, 104, 109; 2003 a. 33, 35, 48, 91, 111, 299; 2005 a. 1, 22, 25, 74, 153, 172, 335, 441, 478.

**INSERT 19-12:**

**SECTION 14.** 25.17 (12) (c) and (13) of the statutes are repealed.

**INSERT 24-1:**

**SECTION 15.** 25.18 (1) (o) of the statutes is amended to read:

25.18 (1) (o) Invest any of the assets of the permanent endowment fund in any investment that is an authorized investment for assets in the core retirement investment trust under s. 25.17 (4) or assets in the variable retirement investment trust under s. ~~25.17 (5)~~ 25.182.

**History:** 1975 c. 39; 1983 a. 27, 192; 1985 a. 29; 1987 a. 27, 399; 1989 a. 119, 338, 366; 1991 a. 39; 1993 a. 112; 1995 a. 274; 1999 a. 11, 83; 2001 a. 16, 104; 2003 a. 299; 2005 a. 25, 153, 410.

**INSERT 25-1:**

**SECTION 16.** 25.183 (1) (a) 6e. of the statutes is amended to read:

25.183 (1) (a) 6e. Any collateralized mortgage obligation or other asset-backed security which either has one of the 2 highest ratings given by a nationally recognized statistical rating service organization or is backed or collateralized by insured instruments, guarantees or pledges of the federal government, this state or an agency of the federal government or this state.

**History:** 1995 a. 274.



**SECTION 17.** 25.183 (1) (a) 6m. a. of the statutes is amended to read:

25.183 **(1)** (a) 6m. a. The counterparty to the transaction is rated in, or has outstanding long-term debt which is rated in, one of the 2 highest ratings given by a nationally recognized statistical rating service organization. ✓

**History:** 1995 a. 274.

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3122/P1dn

ARG:.....

gjs

(as renumbered from  
s. 25.17 (3)(dg) 1.)

Please review the attached draft carefully to ensure that it is consistent with your intent.

I have changed "Invest ..." to "Have authority to invest ..." in s. 25.17 (3) (a) and (b). Please advise if this is not consistent with your intent.

Also related to s. 25.17 (3) (b), for grammatical reasons, I modified the approach in the drafting instructions, instead creating a new subdivision under s. 25.17 (3) (b). Under current law, the "10 year maturity" in s. 25.17 (3) (b) 1. applies to each investment. I am uncertain whether you intended this limitation to continue to apply to all investments under current s. 25.17 (3) (b) 1. This limitation does not apply to the investments under s. 25.17 (3) (b) 1m. in the attached draft. Also, I did not include "or trust" in s. 25.17 (3) (b) (intro.) because the provision does not provide authority for investment of the core trust or variable trust.

Created s. 25.182 in the attached draft revises SWIB's investment and management authority with respect to the core trust and the variable trust. If you believe that s. 25.18 (2) (e) 1. will continue to apply with respect to the core trust and the variable trust, will s. 25.18 (2) (e) 1. provide a narrower investment authority of core trust assets and variable trust assets if they are externally managed and, if so, is this consistent with SWIB's intent?

I do not believe any amendment of s. 25.17 (14m) (b) regarding derivatives reporting is necessary.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

see d-note  
insert

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: aaron.gary@legis.wisconsin.gov

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3122/P1dnins  
ARG:.....

d-note insert

As discussed, there is some challenge to reconciling the investment authority under created s. 25.182 with the existing limited "equities" purpose of the variable trust. Given the breadth of the "notwithstanding" provision in s. 25.182, I do not believe this draft accomplishes your intent, as the "notwithstanding" language expressly overrides (and may be readily interpreted to preempt) all other language, thus allowing any composition of investments in the variable retirement investment trust. Do you want to add something like "subject to the purpose specified for the variable retirement investment trust in s. 25.17 (5)" at the end of created s. 25.182? In addition, I understand that SWIB has given significant attention to the interaction between created s. 25.182 and s. 25.18 (2) (e) and that no explicit treatment is desired in this draft.

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3122/P1dn  
ARG:cjs:jf

September 13, 2007

Please review the attached draft carefully to ensure that it is consistent with your intent.

I have changed "Invest ..." to "Have authority to invest ..." in s. 25.17 (3) (a) and (b). Please advise if this is not consistent with your intent.

Also related to s. 25.17 (3) (b), for grammatical reasons, I modified the approach in the drafting instructions, instead creating a new subdivision under s. 25.17 (3) (b). Under current law, the "10 year maturity" in s. 25.17 (3) (b) 1. applies to each investment. I am uncertain whether you intended this limitation to continue to apply to all investments under current s. 25.17 (3) (b) 1. This limitation does not apply to the investments under s. 25.17 (3) (b) 1m. (as renumbered from s. 25.17 (3) (dg) 1.) in the attached draft. Also, I did not include "or trust" in s. 25.17 (3) (b) (intro.) because the provision does not provide authority for investment of the core trust or variable trust.

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As discussed, there is some challenge to reconciling the investment authority under created s. 25.182 with the existing limited "equities" purpose of the variable trust. Given the breadth of the "notwithstanding" provision in s. 25.182, I do not believe this draft accomplishes your intent, as the "notwithstanding" language expressly overrides (and may be readily interpreted to preempt) all other language, thus allowing any composition of investments in the variable retirement investment trust. Do you want to add something like "subject to the purpose specified for the variable retirement investment trust in s. 25.17 (5)" at the end of created s. 25.182? In addition, I understand that SWIB has given significant attention to the interaction between created s. 25.182 and s. 25.18 (2) (e) and that no explicit treatment is desired in this draft.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary  
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Phone: (608) 261-6926  
E-mail: [aaron.gary@legis.wisconsin.gov](mailto:aaron.gary@legis.wisconsin.gov)

# INSTRUCTIONS for /P2

2007 - 2008 LEGISLATURE

LRB-3122/P1

ARG:cjs:jf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Mtg. w/ Jane Hamblen & Sandy Drew  
9/21 PM

*[Signature]*

Need Tues. PM

Check

1 AN ACT *to repeal* 25.17 (3) (b) 7., 25.17 (3) (bh) and (d), 25.17 (3) (dg) (intro.),  
2 25.17 (3) (dg) 3., 25.17 (3) (dm), 25.17 (4), 25.17 (12) (c) and (13), 25.17 (15) and  
3 25.17 (65); *to renumber and amend* 25.01, 25.17 (3) (dg) 1. and 25.17 (3) (dg)  
4 2.; *to amend* 25.14 (1) (a) 1., 25.14 (5), 25.15 (2) (intro.), 25.15 (2) (a), 25.15 (3),  
5 25.16 (4), 25.17 (1) (r), 25.17 (2) (a) to (e), 25.17 (3) (a), 25.17 (3) (b) (intro.), 3.,  
6 4. and 5., 25.17 (3) (ba), 25.17 (3) (bd), 25.17 (3) (f), 25.17 (3) (g), 25.17 (5), 25.17  
7 (6), 25.17 (7) (a) and (b), 25.17 (10), 25.17 (12) (a) and (b), 25.17 (70) (intro.),  
8 25.17 (70) (b) (intro.), 25.17 (70) (d), 25.18 (1) (e), 25.18 (1) (o), 25.183 (1) (a) 6e.,  
9 25.183 (1) (a) 6m. a. and 560.08 (2) (m); and *to create* 25.01 (2), 25.14 (1) (a) 19.  
10 to 23., 25.156 (10) and (11), 25.17 (1) (eq), 25.17 (1) (jt), 25.17 (1) (vb), 25.17 (2)  
11 (g), 25.17 (63) and 25.182 of the statutes; **relating to:** investments and  
12 operations of the State of Wisconsin Investment Board.

---

## *Analysis by the Legislative Reference Bureau*

This bill makes all of the following changes with respect to the State of Wisconsin Investment Board (SWIB):

# Suggested modifications:

2007 - 2008 Legislature

- 2 -

Removes the Core trust from the

LRB-3122/P1

ARG:cjs:jf

but continues to require that the variable trust is invested primarily in equities.

1. Under current law, SWIB has authority to manage and invest Wisconsin Retirement System contributions, which comprise the public employee trust fund. A core retirement investment trust (core trust) and a variable retirement investment trust (variable trust) are maintained in the public employee trust fund. SWIB may invest assets of the core trust and the variable trust in specific classes of investments enumerated by statute (authorized list). This bill ~~eliminates provisions limiting SWIB's investment authority for the core trust and the variable trust to the authorized list.~~ In lieu of specifying an authorized list, the bill authorizes SWIB to manage the money and property of the core trust ~~and the variable trust~~ in any manner that does not violate SWIB's standard of responsibility, which is the standard of responsibility described in item 2., below.

for the Core trust

Note: These standards have not been changed in the bill.

2. The bill slightly modifies SWIB's statutory standard of responsibility for investments. Under the bill, SWIB's standard of responsibility in managing money and property is: (1) to manage the money and property with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a similar capacity, with the same resources, and familiar with like matters, exercises in the conduct of an enterprise of a like character with like aims; (2) to diversify investments in order to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so, considering each trust's or fund's portfolio as a whole at any point in time; and (3) to administer assets of each trust or fund solely for the purpose of ensuring the fulfillment of the purpose of each trust or fund at a reasonable cost and not for any other purpose. The bill clarifies that this standard of responsibility applies to SWIB with two exceptions and that, with one exception, the statutory investment standard for a personal representative, trustee, conservator, or guardian of an estate (estate standard) does not apply to SWIB. Under one exception, the estate standard rather than SWIB's statutory standard of responsibility applies in investing historical society funds. Under another exception, in certain instances where SWIB has management authority over an entity's assets but that entity has authority to direct the terms and conditions of SWIB's investments, SWIB is relieved of its statutory standard of responsibility.

organize??

3. Under current law, the building commission may direct that moneys resulting from certain public debt be deposited in funds or accounts created or designated by a building commission resolution. Moneys deposited or held in these funds or accounts may be invested in any obligations specified by a building commission resolution. This bill specifies that SWIB must invest these funds as provided by the building commission resolution and, in doing so, is relieved of its statutory standard of responsibility.

provides SWIB the authority to manage these funds and

4. The bill requires SWIB, if requested by the the Health Insurance Risk-Sharing Plan Authority (HIRSP Authority), to invest funds of the HIRSP Authority in the state investment fund (SIF).

5. Under current law, SWIB may invest the funds included in the SIF in loans secured by U.S. government obligations having a maturity of five years or less if the principal amount of each loan does not exceed 98 percent of the market value of the collateral. This bill modifies this investment authority and authorizes SWIB to invest the funds included in the SIF in loans, including repurchase agreements, that

are collateralized by certain classes of authorized investments if the market value of the collateral security is at least 102 percent of the principal amount of the loan or an amount established by SWIB by rule.

6. The bill specifies that SWIB may invest in certain instruments of financial institutions that are "doing business" in this state or the United States, rather than "located" in this state or the United States. The bill also makes other minor modifications to SWIB's investment authority.

Clarifies

7. The bill specifies that provisions of current law related to lawsuits against public officers and employees also apply to the members of SWIB (SWIB trustees), including provisions related to payment of judgments against public officers or employees acting in their official capacity or carrying out public duties. ~~The bill also specifically authorizes SWIB trustees to secure directors' liability insurance in amounts reasonably expected to be adequate.~~

8. The bill specifies that certain statutorily created funds are not included in the SIF. *← This is a technical, not substantive, amendment.*

9. Current law requires SWIB's executive director, chief investment officer, and each investment director to file a bond for the faithful performance of that person's duties. Under this bill, ~~a performance bond is required of these individuals only if required by the SWIB trustees.~~ *[It is made clear that the SWIB trustees may decide not to require a bond to any amount.]*

10. The bill modifies the schedule for a certain biennial reporting requirement of SWIB relating to investments in this state.

11. The bill includes additional changes to clarify and modernize certain statutory provisions, as well as nonsubstantive and technical changes.

in the  
amount  
required  
by the  
SWIB  
trustees.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1 SECTION 1. 25.01 of the statutes is renumbered 25.01 (intro.) and amended to  
2 read:

3 **25.01 Definition Definitions.** (intro.) In this chapter, unless the context  
4 requires otherwise, "board":

5 **(1) "Board"** means the investment board.

6 SECTION 2. 25.01 (2) of the statutes is created to read:

7 25.01 (2) "Fund," when referring generally to funds ~~included~~ under s. 25.17 (1),  
8 includes a trust.

9 SECTION 3. 25.14 (1) (a) 1. of the statutes is amended to read:

10 25.14 (1) (a) 1. The state life insurance fund.



1       **SECTION 4.** 25.14 (1) (a) 19. to 23. of the statutes are created to read:

2       25.14 (1) (a) 19. The local government property insurance fund.

3       20. All funds of the historical society that are available for investment as  
4 determined by the society under s. 25.17 (3) (c).

5       21. The environmental improvement fund.

6       22. The transportation infrastructure loan fund.

7       23. The veterans trust fund.

8       **SECTION 5.** 25.14 (5) of the statutes is amended to read:

9       25.14 (5) The assets of the state investment fund shall be invested as  
10 prescribed authorized by ~~s. ss.~~ 25.17 (3) (b), (ba), and (bd), 25.18, as applicable, and  
11 25.183.

12       **SECTION 6.** 25.15 (2) (intro.) of the statutes is amended to read:

13       25.15 (2) STANDARD OF RESPONSIBILITY. (intro.) Except as provided in s. 25.17  
14 (2) ~~(f)~~ and (3) (c), the standard of responsibility applied to the board when it ~~invests~~  
15 manages money or and property shall be all of the following:

16       **SECTION 7.** 25.15 (2) (a) of the statutes is amended to read:

17       25.15 (2) (a) ~~To invest, sell, reinvest and collect income and rents~~ manage the  
18 money and property with the care, skill, prudence and diligence under the  
19 circumstances then prevailing that a prudent person acting in a similar capacity,  
20 with the same resources, and familiar with like matters exercises in the conduct of  
21 an enterprise of a like character with like aims.

22       **SECTION 8.** 25.15 (3) of the statutes is amended to read:

23       25.15 (3) EXEMPTION. ~~Section 881.01~~ Except as provided in s. 25.17 (3) (c), ch.  
24 881 does not apply to investments by the board.

25       **SECTION 9.** 25.156 (10) ~~and (11)~~ of the statutes are created to read:

NOTE:  
Deleted  
now

1 25.156 (10) The provisions of s. 895.46 (1) apply to the members of the board.

2 ~~(11) Notwithstanding s. 16.865 (5), the members of the board shall have the~~  
 3 ~~authority to secure directors' liability insurance in amounts reasonably expected to~~  
 4 ~~be adequate~~

5 SECTION 10. 25.16 (4) of the statutes is amended to read:

6 25.16 (4) The executive director shall take the official oath and the executive  
 7 director, chief investment officer, and each investment director shall ~~if required by~~  
 8 ~~the members of the board~~ file a bond for the faithful performance of that person's  
 9 duties in such amount and with such sureties as the members of the board require.

10 SECTION 11. 25.17 (1) (eq) of the statutes is created to read:

25.17 (1) (eq) Environmental improvement fund (s. 25.43), but subject to sub.  
 (2) (d); *Insert new 25.17 (1) (gf) Health Insurance Risk-Sharing*  
*Plan Authority monies, but subject to sub. (2) (h).*

SECTION 12. 25.17 (1) (jt) of the statutes is created to read:

14 25.17 (1) (jt) Mediation fund (s. 655.68);

15 SECTION 13. 25.17 (1) (r) of the statutes is amended to read:

16 25.17 (1) (r) State housing authority reserve fund (s. 25.41), but subject to sub.  
 17 (2) (c);

18 SECTION 14. 25.17 (1) (vb) of the statutes is created to read:

19 25.17 (1) (vb) Transportation infrastructure loan fund (s. 25.405), but subject  
 20 to sub. (2) (e);

21 SECTION 15. 25.17 (2) (a) to (e) of the statutes are amended to read:

22 25.17 (2) (a) ~~Invest~~ Have authority to invest any of the funds specified in sub.  
 23 (1), except operating funds, the capital improvement fund ~~and~~ the bond security and  
 24 redemption fund, the industrial building construction loan fund, and any  
 25 redemption fund established under s. 18.561 (5) or 18.562 (3), in loans to the

NOTE: DIFFERENT  
TREATMENT OF  
HOSP.  
13

(63)

1 Wisconsin University Building Corporation, the Wisconsin State Colleges Building  
2 Corporation or the Wisconsin State Public Building Corporation, but only if the loans  
3 are secured by mortgages upon property owned by the respective corporations  
4 producing sufficient income to retire the mortgage over the term of the loan or are  
5 secured by the pledge of rentals sufficient in amount to retire the indebtedness. The  
6 board shall make no loans to any building corporation described in this subsection  
7 except under the conditions prescribed in this paragraph, or except as otherwise  
8 provided in par. (b). These loans shall be made only when in the judgment of the  
9 board it is to the interest of the funds to do so, except that loans made under par. (b)  
10 shall be made at the direction of the building commission.

*Have the authority to*

11 (b) ~~Invest~~ the state building trust fund in loans to the Wisconsin State Public  
12 Building Corporation, to the Wisconsin University Building Corporation, and to the  
13 Wisconsin State Colleges Building Corporation. Except for interim loans for  
14 construction, or other temporary financing for the purchase of lands, planning,  
15 including both engineering and financing, and all other expenses incidental to any  
16 of the foregoing, loans under this paragraph shall be secured by a pledge and  
17 assignment of net revenues derived from the operation of buildings by the borrowing  
18 corporation on lands leased or conveyed to the corporation. Any loan under this  
19 paragraph shall be made upon the direction of the building commission, and the  
20 board is relieved of any obligations relevant to prudent investment of the fund,  
21 including those set forth under s. 25.15 (2).

22 (c) Invest the State Housing Authority reserve fund as directed by the  
23 Wisconsin Housing and Economic Development Authority in housing rehabilitation  
24 loan program bonds of the authority including subordinated bonds that may also be  
25 special obligations of the authority. In making the investment, the board shall accept

1 the terms and conditions as the authority specifies and is relieved of any obligations  
2 relative relevant to prudent investment of the fund, including those set forth under  
3 ~~ch. 881 s. 25.15 (2)~~.

4 (d) Invest the environmental improvement fund, and collect the principal and  
5 interest of all moneys loaned or invested from the environmental improvement fund,  
6 as directed by the department of administration under s. 281.59 (2m). In making  
7 investments under this paragraph, the board shall accept any reasonable terms and  
8 conditions that the department of administration specifies and is relieved of any  
9 obligations relevant to prudent investment of the fund, including those set forth  
10 under ~~ch. 881 s. 25.15 (2)~~.

11 (e) Invest the transportation infrastructure loan fund, and collect the principal  
12 and interest of all moneys loaned or invested from the transportation infrastructure  
13 loan fund, as directed by the department of administration under s. 85.52 (4m). In  
14 making investments under this paragraph, the board shall accept any reasonable  
15 terms and conditions that the department of administration specifies and is relieved  
16 of any obligations relevant to prudent investment of the fund, including those set  
17 forth under ~~ch. 881 s. 25.15 (2)~~.

18 SECTION 16. 25.17 (2) (g) of the statutes is created to read:

19 **C** 25.17 (2) (g) Notwithstanding any other provision of this chapter, invest any  
20 funds that the building commission directs the board to invest by resolution under  
21 s. 18.04 (6) ~~(b)~~ as specified by such resolution. In making investments under this  
22 paragraph, the board shall accept the terms and conditions specified in the  
23 resolution and is relieved of any obligations relevant to prudent investment of the  
24 fund, including those set forth under s. 25.15 (2).

25 SECTION 17. 25.17 (3) (a) of the statutes is amended to read:

INSERT NEW 25.17(2)(h) re HIRSP using language  
that is 25.17(63) in this draft on p.13.

25.17 (3) (a) ~~Invest the core retirement investment trust, Have authority to invest the state life insurance fund, local government property insurance fund, veterans trust fund, and injured patients and families compensation fund in loans, securities, and any other investments authorized by s. 620.22, and in bonds or other evidences of indebtedness or preferred stock of companies engaged in the finance business whether as direct lenders or as holding companies owning subsidiaries engaged in the finance business. Investments permitted by sub. (4) are permitted investments under this subsection.~~

SECTION 18. 25.17 (3) (b) (intro.), 3., 4. and 5. of the statutes are amended to read: Subject to par. (d) ← bond security + redemption fund ?

25.17 (3) (b) (intro.) ~~Invest~~ Have authority to invest any of the funds over which it has investment authority other than the funds identified in sub. (3) (a), the bond security and redemption fund, the core retirement investment trust, and the variable retirement investment trust, including but not limited to the state investment fund and surplus funds of the state building trust fund not invested under sub. (2) (b) and not in the state investment fund, in:

3. ~~Unsecured notes of financial and industrial issuers~~ Debt instruments maturing within 5 years or less from the date of settlement and having one of the 2 highest short-term ratings given by a nationally recognized statistical rating service organization, but if the ~~corporation~~ entity issuing such ~~notes~~ debt instruments has any long-term senior debt issues outstanding which also have been rated, the rating must be one of the 3 highest ratings so given. 4.a.

4. Certificates of deposit that are issued by banks located doing business in the United States and by savings and loan associations, savings banks, and credit unions located doing business in this state <sup>stat</sup> that are issued by solvent financial institutions

other

4.a.

4.b.

4.b.

take all of this out

wait to hear back

1 doing business in this state. The board shall establish guidelines that a financial  
2 institution must meet to qualify under this subdivision. 4.5.

3 5. Bankers acceptances accepted by banks located doing business in the United  
4 States.

5 **SECTION 19.** 25.17 (3) (b) 7. of the statutes is repealed.

6 **SECTION 20.** 25.17 (3) (ba) of the statutes is amended to read:

7 25.17 (3) (ba) Invest Have authority to invest the funds included in the state  
8 investment fund created by s. 25.14 in loans upon collateral security in the form of  
9 direct obligations of the U.S. government having a maturity of 5 years or less where,  
10 including repurchase agreements, that are collateralized by investments authorized  
11 by sub. (3) (b) where the market value of the collateral security is not less than 102  
12 percent of the principal amount of each such loan does not exceed 98% of the market  
13 value of such collateral security or such other amount as the board may establish by  
14 rule.

15 **SECTION 21.** 25.17 (3) (bd) of the statutes is amended to read:

16 25.17 (3) (bd) Have authority to invest any funds ~~includable~~ included in the  
17 state investment fund, other than the industrial building construction loan fund, in  
18 loans, securities, or investments which are in addition to those permitted under any  
19 other statute but within the board standard of responsibility under s. 25.15 (2). The  
20 total amount of loans, securities, and investments made under this paragraph may  
21 not exceed 10% 10 percent of the aggregate value of all funds ~~includable~~ included in  
22 the state investment fund ~~under s. 25.14 (1)~~ at the time that the investment is made.

23 **SECTION 22.** 25.17 (3) (bh) and (d) of the statutes are repealed.

24 **SECTION 23.** 25.17 (3) (dg) (intro.) of the statutes is repealed.

1           **SECTION 24.** 25.17 (3) (dg) 1. of the statutes is renumbered 25.17 (3) (b) 1m. and  
2 amended to read:

3           25.17 (3) (b) 1m. Direct obligations of ~~the United States and of agencies of and~~  
4 ~~corporations wholly owned by the United States, and direct obligations of federal~~  
5 ~~land banks, federal home loan banks, the central bank for cooperatives, and banks~~  
6 ~~for cooperatives or unincorporated cooperative associations, international bank for~~  
7 ~~reconstruction and development, the international finance corporation,~~  
8 ~~inter-American development bank, African development bank and Asian~~  
9 ~~development bank, in each case maturing within one year or less from the date of~~  
10 ~~investment.~~

11           **SECTION 25.** 25.17 (3) (dg) 2. of the statutes is renumbered 25.17 (3) (b) 7m. and  
12 amended to read:

13           25.17 (3) (b) 7m. Commercial paper maturing within one year or less from the  
14 date of investment and rated prime by ~~the national credit office~~ a nationally  
15 recognized statistical rating organization, if the issuing corporation has one or more  
16 long-term senior debt issues outstanding, each of which has one of the 3 highest  
17 ratings issued by ~~Moody's investors service or Standard & Poor's corporation~~ a  
18 nationally recognized statistical rating organization.

19           **SECTION 26.** 25.17 (3) (dg) 3. of the statutes is repealed.

20           **SECTION 27.** 25.17 (3) (dm) of the statutes is repealed.

21           **SECTION 28.** 25.17 (3) (f) of the statutes is amended to read:

22           25.17 (3) (f) ~~Every~~ Hold every investment ~~shall be held~~ as an asset of the fund  
23 by which it is purchased and, except as otherwise provided by law, the loss or gain  
24 shall inure thereto.

25           **SECTION 29.** 25.17 (3) (g) of the statutes is amended to read:

*Subject only to the provisions of this subsection,*

1       25.17 (3) (g) All Have under its management and control all loans, securities,  
2       and other investments in which moneys of any such fund, including the general fund,  
3       are invested ~~shall be under the management and control of the board.~~

4       **SECTION 30.** 25.17 (4) of the statutes is repealed.

5       **SECTION 31.** 25.17 (5) of the statutes is amended to read:

6       25.17 (5) ~~The limitations upon the percentage of the assets of any fund that are~~  
7       ~~imposed by sub. (4) or any other statute shall not be applicable to investments made~~  
8       ~~by the board of funds in the variable retirement investment trust created under s.~~  
9       ~~40.04 (3) and those investments shall be excluded in computing the assets to which~~  
10      ~~the limitations imposed by sub. (4) apply. Assets~~ Invest the assets of the variable  
11      retirement investment trust ~~shall be invested~~ created under s. 40.04 (3) primarily in  
12      equity securities that ~~shall~~ may include common stocks, real estate or other  
13      recognized forms of equities whether or not subject to indebtedness, including  
14      securities convertible into common stocks and securities of corporations in the  
15      venture capital stage. The board may, however, temporarily invest assets of the  
16      variable retirement investment trust in investments that are authorized under sub.  
17      (3), but the assets so temporarily invested shall be replaced by equity securities at  
18      the earliest time considered by the board to be practicable considering the then  
19      existing condition of the securities market and other influential factors. Investments  
20      ~~in securities of corporations that are in the venture capital stage shall not exceed 2%~~  
21      ~~of the admitted assets of the variable retirement investment trust.~~

22      **SECTION 32.** 25.17 (6) of the statutes is amended to read:

23      25.17 (6) Notwithstanding any other statute, have authority to make transfers  
24      from the variable retirement investment trust to the core retirement investment  
25      trust under s. 40.04 (7) ~~may be made~~ in cash or securities or both, as determined by

26      *The board shall have authority to manage the money and  
27      property of the variable ~~fund~~ retirement investment trust in any  
28      manner that does not violate the standard of responsibility specified  
29      in s. 25.15 (2).*



1 the board. The board shall determine market values for securities in the variable  
2 retirement investment trust as of the close of business on the last working day  
3 preceding a transfer. If securities are transferred, to the extent determined feasible  
4 by the board, a proportionate amount of all securities in even hundreds of shares of  
5 stock or even thousands of par value of bonds in the variable retirement investment  
6 trust shall be transferred. The board may hold or sell the transferred securities as  
7 it determines appropriate considering market and economic conditions. Any  
8 ~~limitation on the percentage of assets in common stocks or in the stock of one~~  
9 ~~company does not apply to the transferred securities, except the board shall, at such~~  
10 ~~time as it determines that market, economic and other conditions are appropriate to~~  
11 ~~the sale of the securities, sell sufficient transferred securities so as to comply with~~  
12 ~~percentage of asset limitations.~~

13 SECTION 33. 25.17 (7) (a) and (b) of the statutes are amended to read:

14 25.17 (7) (a) Mortgages on real estate outside of this state may be made to, and  
15 the title to real estate outside of this state may be acquired in the name of, a trustee  
16 under a trust agreement between the board and a bank, credit union, savings and  
17 loan association, savings bank, or trust company organized under the laws of the  
18 United States or any state having a combined capital and surplus of at least  
19 \$25,000,000; and ~~any such mortgages or real estate acquired prior to June 24, 1966,~~  
20 may be assigned or conveyed to the trustee under an appropriate trust agreement  
21 between it and the board.

22 (b) Loans, securities, and investments may be purchased or held in the name  
23 of, or transferred to nominees of, one or more banks or trust companies meeting the  
24 requirements of this ~~section~~ paragraph under a custodial agreement between the  
25 board and each such bank or trust company. Any such bank or trust company shall

1 be organized under the laws of the United States or any state thereof and any such  
2 bank or trust company not located doing business in Wisconsin shall have a combined  
3 capital surplus and undivided profits of at least \$100,000,000. Foreign loans,  
4 securities, and investments may be purchased or held in the name of, or transferred  
5 to nominees of, foreign sub-custodians of any such bank or trust company.

6 **SECTION 34.** 25.17 (10) of the statutes is amended to read:

7 25.17 (10) If a building constitutes <sup>10k as is</sup> any part of the security for a loan made by  
8 the board under ~~s. ss. 25.17 (3) (b) or (c) and 620.22 (2)~~ <sup>or</sup> under s. 25.182, keep the  
9 building ~~shall be kept~~ insured for at least the unpaid amount of the loan or any larger  
10 amount that may be necessary to comply with any coinsurance clause inserted in or  
11 attached to the policy. When the full insurable value of the building is less than the  
12 unpaid amount of the loan, the building shall be kept insured for the full insurable  
13 value of the building.

14 **SECTION 35.** 25.17 (12) (a) and (b) of the statutes are amended to read:

15 25.17 (12) (a) The commissioner of insurance in the investment of the state  
16 local government property insurance fund;

17 (b) The commissioner of insurance, the state treasurer, the secretary of state  
18 and the attorney general in the investment of the state life insurance fund;

19 **SECTION 36.** 25.17 (12) (c) and (13) of the statutes are repealed.

20 **SECTION 37.** 25.17 (15) of the statutes is repealed.

21 **SECTION 38.** 25.17 (63) of the statutes is created to read:

22 25.17 (63) If requested by the Health Insurance Risk-Sharing Plan Authority,  
23 invest funds of the Health Insurance Risk-Sharing Plan Authority in the state  
24 investment fund.

25 **SECTION 39.** 25.17 (65) of the statutes is repealed.

Move to  
become § 25.17(2)(h)  
on page 7

1           **SECTION 40.** 25.17 (70) (intro.) of the statutes is amended to read:

2           25.17 **(70)** (intro.) No later than ~~June 30~~ December 31 of every ~~odd-numbered~~  
3 even-numbered year, after receiving a report from the department of commerce  
4 under s. 560.08 (2) (m) and in consultation with the department of commerce, submit  
5 to the governor and to the presiding officer of each house of the legislature a plan for  
6 making investments in this state. The purpose of the plan is to encourage the board  
7 to make the maximum amount of investments in this state, subject to s. 25.15 and  
8 consistent with the statutory purpose of each trust or fund managed by the board.  
9 The plan shall discuss potential investments to be made during the ~~first to 5th fiscal~~  
10 years following 5 calendar years beginning with the year after submittal, and shall  
11 include, but not be limited to, the following:

12           **SECTION 41.** 25.17 (70) (b) (intro.) of the statutes is amended to read:

13           25.17 **(70)** (b) (intro.) Nonbinding management objectives for each fiscal  
14 calendar year stated, as appropriate, as a dollar amount or as a percentage of the  
15 total amount of all investments made by the board, for the following:

16           **SECTION 42.** 25.17 (70) (d) of the statutes is amended to read:

17           25.17 **(70)** (d) Comments solicited from the secretary of commerce and received  
18 by the board on or before ~~May 31~~ November 30 of the year of submittal.

19           **SECTION 43.** 25.18 (1) (e) of the statutes is amended to read:

20           25.18 **(1)** (e) Take such action as may be necessary to make investments in  
21 mortgage loans or in the purchase of interests in real estate in any other state or ~~in~~  
22 Canada any other developed country in which investment is authorized, including  
23 but not excluding because of enumeration, qualifying to do business, filing reports,  
24 paying franchise, license or other fees and taxes, designating agents, designating an  
25 office and subjecting itself to suit.

*Under 25.182*

1 SECTION 44. 25.18 (1) (o) of the statutes is amended to read:

2 25.18 (1) (o) Invest any of the assets of the permanent endowment fund in any  
3 investment that is an authorized investment for assets in the core retirement  
4 investment trust under s. 25.17 (4) or ~~assets in~~ <sup>sketch</sup> the variable retirement investment  
5 trust under s. ~~25.17 (5)~~ <sup>sketch</sup> 25.182.

6 SECTION 45. 25.182 of the statutes is created to read:

7 25.182 Management authority for ~~certain funds~~ <sup>Core retirement investment trust</sup>. In addition to the  
8 management authority provided under any other provision of law, and  
9 notwithstanding any limitation on the board's management authority provided  
10 under any other provision of law, the board shall have authority to manage the  
11 money and property of the core retirement investment trust <sup>keep</sup> ~~and the variable~~  
12 ~~retirement investment trust~~ in any manner that does not violate the standard of  
13 responsibility specified in s. 25.15 (2). <sup>subject to 25.17 (5)</sup>

14 SECTION 46. 25.183 (1) (a) 6e. of the statutes is amended to read:

15 25.183 (1) (a) 6e. Any collateralized mortgage obligation or other asset-backed  
16 security which either has one of the 2 highest ratings given by a nationally  
17 recognized statistical rating service organization or is backed or collateralized by  
18 insured instruments, guarantees or pledges of the federal government, this state or  
19 an agency of the federal government or this state.

20 SECTION 47. 25.183 (1) (a) 6m. a. of the statutes is amended to read:

21 25.183 (1) (a) 6m. a. The counterparty to the transaction is rated in, or has  
22 outstanding long-term debt which is rated in, one of the 2 highest ratings given by  
23 a nationally recognized statistical rating service organization.

24 SECTION 48. 560.08 (2) (m) of the statutes is amended to read:

560.08 **(2)** (m) No later than January 1 November 30 of each ~~odd-numbered~~ even-numbered year, submit to the investment board a report describing the types of investments in businesses in this state which will have the greatest likelihood of enhancing economic development in this state.

(END)